Portugal

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I. THE COUNTRY AT A GLANCE

A. What languages are spoken?

The official language is Portuguese, which derives directly from ancient Latin. Portuguese is not only spoken in Portugal as the official language, but also in the former Portuguese colonies of Brazil, Angola, Mozambique, São Tomé e Príncipe, Guinea-Bissau, Cape Verde and East Timor.

Other languages are also spoken in business circles, such as English and French, which are taught in school as part of the official educational curriculum. In general Portuguese people have a good understanding of Spanish.

B. What is the exchange rate for the U.S. dollar, the Euro?

The official currency in Portugal is the Euro. The Portuguese Escudo was definitively abandoned during the first half of 2002.

C. Describe your country’s geography, proximity to other countries and climate.

Portugal is located in the Iberian Peninsula in the western part of Europe. It has only two borders; one with its neighbouring country Spain that stretches from the eastern border up to the northern border of the country, and the other is a natural border with the Atlantic Ocean which meets the southern and the western borders of Portugal. Portugal occupies an area of approximately 92,000 square kilometres (35,521 square miles) including the archipelagos of Madeira and the Azores. The mainland is affected by the mountains of the Iberian Peninsula. It is essentially composed of two types of landscape. In the North the terrain is more rugged with deep valleys and high rocky formations that erosion from the weather has given a particular form. The highest mountains in northern Portugal are “Serra do Marão” and “Serra da Estrela” 1,991 and 1,993 meters high, respectively. In the South we find the broad open plains of Alentejo and the Algarve. Portugal has a very rich hydrographical network. The main rivers are the Douro in the North, the Tagus in the centre of the country and the Guadiana in the South.
Portugal’s main cities are Lisbon, its capital and prime centre for trade and business with approximately two million inhabitants, and Oporto, the most important northern city, a traditional centre of Port wine and textile industries. Other coastal cities are Setúbal, situated in one of the foremost industrial regions, Coimbra, where the oldest university in Portugal is located, and Aveiro, which has an important fishing and harbour centre. There are three international airports that are located in Lisbon, Oporto and Faro.

Portugal’s climate is strongly influenced by oceanic winds, particularly along its 700 km coastline. The weather in the coastal regions is completely different from that which one encounters in the interior part of the country. The former is humid and mild with average temperatures ranging from 10°C in the winter to 24°C in the summer, whilst in the interior part of the country the minimum temperature tends to be lower while the maximum temperature is somewhat higher. The winter and autumn are rainy seasons, and the summer and spring are dry, sunny seasons.

D. Are there cultural influences or prohibitions on the way business is conducted?

There are no specific cultural influences or prohibitions on the way business is conducted in Portugal.

E. Are there religious influences or prohibitions on the way business is conducted?

There are no religious influences or prohibitions on the way business is conducted in Portugal.

F. Explain your country’s infrastructure.

The most important airports in Portugal are in Lisbon, Oporto and Faro (Algarve), as well as the Funchal and Porto Santo airports (both in the archipelago of Madeira) and the Ponta Delgada, Santa Maria, Horta, Flores and Angra do Heroísmo airports (all in the archipelago of the Azores).

There also numerous harbours on the Portuguese continental cost, as well as in the Azores and Madeira. On the mainland there are nine major sea ports, all receiving international traffic, including Sines harbour, which is located approximately 58 maritime miles south of Lisbon. It is one of the few European harbours with deep waters. The Sines, Leixões and Lisbon harbours have regular cargo lines linking Portugal to North, Central and South America, Asia, Africa, Europe and the Middle East.
The Portuguese continental territory is well served by a network of modern roads, including highways that cross the country from the northern border to the tourism region of the Algarve in the South, and also from the eastern border to Portugal’s Atlantic coast.

Portugal is also well served by modern railroads that connect the cities of the Portuguese continental territory, as well as by a network of cargo railway lines. There are four international railway lines in Portugal. There are two main container terminals, Bobadela and Leixões. The Bobadela terminal is located on the outskirts of Lisbon with a direct connection to the Lisbon harbour. The Leixões terminal is located inside the Leixões harbour.

All major Portuguese cities are well served by public transportation. The entire country is served by bus service, and Lisbon and Oporto have subway lines.

G. Explain the communication system

The electronic communications sector was fully liberalised in Portugal as of January 1, 2000, when it became possible for any operator or service provider to offer fixed telephony services and deploy its own network infrastructure.

The current legal framework is contained mainly in Law no. 5/2004, February 10, as amended, (the Electronic Communications Law), which transposed the EU Directives of the 2002 Electronic Communications Framework into Portuguese law. Under this statute network operators and service providers may enter the market under a general authorisation procedure, whereby they are merely required to notify the national regulatory authority (ICP-ANACOM) in order to initiate their activity. Nevertheless, access to numbering resources and radio spectrum frequencies requires the award of individual rights of use by ICP-ANACOM and involves a specific procedure.

ICP-ANACOM is an independent regulatory body, entrusted with enforcing the legal rules governing the electronic communications and postal sectors. It is responsible for monitoring compliance with applicable legal and regulatory obligations and for managing the radio spectrum and numbering resources. Furthermore, under the current regulatory framework, ICP-ANACOM is entrusted with periodically carrying out a full market analysis of several relevant markets (including those markets currently detailed in Commission Recommendation 2007/879/EC, 17 December) in order to identify any undertaking with significant market power (SMP) in any of these markets. Pursuant to a finding of SMP, ICP-ANACOM can impose ex ante regulatory obligations on the
designated operator or service provider (ranging from network access to price control obligations) in order to foster competition.

Portugal Telecom, the historical telecommunications operator, was fully privatised between 1995 and 2000, although the Portuguese State continues to hold 500 class A shares conferring special rights (golden share). A subsidiary of Portugal Telecom, PT Comunicações, owns and operates the fixed telephony network, which it purchased from the Portuguese State in December, 2002. PT Comunicações is also the Universal Service telecommunications provider under a public service concession contract. At the end of 2007 Portugal Telecom spun off its cable operation and network which has, subsequently, become a major competitor in the retail provision of pay-tv and broadband services (operating under the name ZON).

Fixed access services, including telephone, broadband access and pay-tv services, are currently provided by several competing network platforms in many cases in the form of bundled triple-play offers. Portugal Telecom’s retail offer is marketed under the Meo brand which is made available over its fixed telephony copper network by satellite and, more recently, over its recently deployed fibre optic network. Other players in these markets include ZON, Optimus and Cabovisão, which mainly operate either cable or fibre networks.

In the mobile communications sector, there are 3 mobile network operators in Portugal – TMN (a subsidiary of Portugal Telecom), Optimus and Vodafone – all of which hold both GSM and UMTS licences. There are also several active mobile virtual network operations. Mobile voice, data and broadband access offers have become widespread in recent years, and the Portuguese Government has announced it intends to launch a public tender in 2011 for the award of Long Term Evolution (LTE) 4th generation mobile licences which will allow for mobile broadband speeds between 100 and 150 megabits per second.

Finally, investment in next generation networks (NGN), notably fibre optic networks, has been singled out as a strategic objective by the Portuguese government since 2008. The regulatory framework for fibre roll-out has remained undefined but in most urban areas several operators (including Portugal Telecom and Optimus) have already connected more than 1 million homes with fibre. In 2010 the Government also concluded 3 public tender procedures for the deployment of NGN in rural areas.
H. Describe the public services – i.e., water, electricity, gas. Are they publicly or privately owned?

The Portuguese energy sector underwent a significant restructuring during 2006 as a result of the implementation of the EU Electricity Directive 2003/54, June 26, by the European Parliament and Council (Electricity Directive), and as a result of the definition of new strategic objectives, principles and general guidelines.

The Electricity Directive was implemented in Portugal by the Resolution of the Council of Ministers no. 169/2005, October 24, which created a national strategy for the energy sector. This strategy was developed by Decree-Law no. 29/2006, February 15, which established a new legal framework for the electricity sector and by Decree-Law no. 172/2006, August 23, as amended, which further developed this legal framework (Electricity Regime) and defined the rules for the activities comprised in the electricity sector.

The activities of transmission, distribution and last recourse supply must be operated independently from each other and from other activities, from a legal, organizational and decision-making standpoint.

The Electricity Regime establishes a model in which activities relating to generation, supply and market operation are competitive and only require a previous compliance with licensing or authorization procedures. The licensing procedure is also applicable to the activity of the last recourse supplier. Transmission and distribution activities are to be provided through the award of a public service concession (or license). The operation of organized electricity markets is subject to authorization to be jointly granted by the Minister of Finance and by the government member which is responsible for the energy sector. The entity managing the organized electricity market is also subject to authorization to be granted by the government member responsible for the energy sector, and, whenever required by law, by the Minister of Finance. Generators operating under the ordinary regime of generators and suppliers, among others, can become market members.

The responsibility for the regulation of the Portuguese energy sector (electricity and gas) is shared between the Directorate General for Energy and Geology (Direção Geral de Energia e Geologia/ DGEG) and the Energy Services Regulatory Authority (Entidade Reguladora dos Serviços Energéticos/ERSE). DGEG has primary responsibility for the conception, promotion and assessment of policies concerning energy and geological resources and has the stated aim of assisting the
sustainable development and the security of the energy supply in Portugal. ERSE is the national energy regulator which is a fully independent regulatory authority. ERSE is also entitled to process administrative offenses and apply the appropriate fines and penalties as a result of a breach of compliance with the measures determined by ERSE and punishable by an administrative penalty. It may also order the investigation of complaints or consumer complaints submitted to it, to concessionaires or to licensees.

In what concerns the natural gas sector, the general basis, principles and model of organization of the Portuguese natural gas system (Portuguese Natural Gas System) were established through Decree-Law 30/2006, February 15, and Decree-Law 140/2006, July 26 (together, the “Natural Gas Framework”), both amended by Decree-Law no. 230/2012, October 26.

The Natural Gas Framework establishes an integrated Portuguese Natural Gas System in which the supply of natural gas and the management of the organized markets are competitive and only require compliance with a licensing or authorization process for the start-up of operations.

Activities relating to the reception, storage and regasification of natural gas, underground storage of natural gas, and natural gas transportation are provided through the award of public service concessions. Natural gas distribution is carried out through the award of public service concessions or licenses.

Under the Natural Gas Framework, natural gas supply is open to competition, subject only to a licensing regime. Suppliers may openly buy and sell natural gas. For this purpose, they have the right of access to the natural gas transportation and distribution networks upon payment of the access charges set by the ERSE. Under market conditions, consumers are free to choose their supplier without any additional fees for switching suppliers.

The Natural Gas Framework enumerates certain public service obligations for suppliers to ensure the quality and continuity of supply, as well as consumer protection with respect to prices, access charges and access to information in simple and understandable terms.

Natural gas supply activities are required to be legally separate from all other activities in the Portuguese Natural Gas System.

The Natural Gas Framework also establishes the existence of last recourse suppliers, subject to regulation by ERSE and to a licensing process. Last recourse suppliers are required to be legally
separate from all other activities in the Portuguese Natural Gas System, unless they serve fewer than 100,000 clients.

Finally, the responsibility for the water sector is shared between the central government and the municipalities, where the former is responsible for the multi-municipal systems (wholesale services), and the latter for municipal systems (end users services). The entities responsible for the provision of these services may choose between three different management models: (i) direct management, (ii) delegation or (iii) concession, and are able to promote public-public partnerships, or public-private partnerships. The municipalities and municipal services constitute the main management model in the sector in number of entities, though not in terms of population served. However, the number of delegations in municipal or inter-municipal companies is increasing, and institutional public-private partnerships can be created through the selection of private partners to participate in the equity capital of these companies, subject to existing concessionary procedures.

With the opening of the market to private participation in 1993, it became necessary to supervise this activity. Therefore, the national government created a sector-specific regulator (Water and Waste Regulation Institute – IRAR, recently replaced by the Water and Waste Services Regulatory Authority - ERSAR) which has the responsibility to ensure adequate protection for consumers and users of the water supply and waste services. It is also ERSAR’s responsibility to ensure that there is equality and transparency in the access and operation of both water and waste services and their contractual relationships, as well as to guarantee an effective public right to general information regarding the sector and each one of the managing entities.

II. GENERAL CONSIDERATIONS
A. Investment policies
1. Does the country generally welcome investment? Are there governmental or private agencies devoted to the promotion of investment?

The Portuguese government welcomes and offers incentives to foreign investment. There are several governmental agencies assigned to the promotion of investment. The most relevant is Agência para o Investimento e Comércio Externo de Portugal, E.P.E. (AICEP Portugal Global – Business Development Agency) which is the proper entity to deal and negotiate with potential
foreign operators concerning their investments in Portugal, as well as to provide them with adequate information, such as figures on economic activities already in place, data on support services, qualifications of the workforce and physical infrastructures available. Also noteworthy are IAPMEI – Instituto de Apoio às Pequenas e Médias Empresas e à Inovação, I.P. (Institute for the Support of SME and Innovation), Turismo de Portugal, I.P. (The National Tourism Authority) and Committee for the Evaluation and Supervision of Projects of Potential National Importance (PIN).

2. **What is the rate of inflation?**

   The Portuguese inflation rate in 2012 was 2.9 per cent.

3. **Explain any sector exceptions, incentives or restrictions on foreign investment.**

   There are no sector exceptions to foreign investment. However, the private sector’s access to certain economic areas, such as, the harnessing, treatment and distribution of water for public consumption, postal services, rail transport and the running of maritime ports, is subject to concession agreements.

   Despite the above mentioned, foreign investment projects have to comply with special Portuguese legal requirements should the investment: (i) in any way affect public order, security, or public health; (ii) involve the production of weapons, munitions or other military equipment; or (iii) involve the exercise of public authority.

   Foreign investments provide financial incentives, job-creation and training incentives and fiscal incentives, which are borne either by the European Union aid budget or by the Portuguese public budget.

4. **Describe de facto restrictions on investment, if any, such as bureaucratic discretion.**

   There are no bureaucratic restrictions on foreign investment in Portugal.

5. **What are the sizes of the different markets?**

   In the past few decades Portugal’s economic development has been increasingly based on services. Currently, this sector provides 75.4% of the gross value added (GVA), whereas the agricultural sector only provides 2.3% of the GVA. Industry, construction, energy, and water represent 22.3% of the GVA.

6. **What types of businesses are conducted in the country?**

   The traditional main businesses conducted in Portugal are agriculture, fishing, manufacturing, textiles, clothing and footwear industries, automotive industry, wine industry, cork paper and wood
industry, tourism and services. Recently the information and communication technology sectors and the biotechnology sector are emerging, and their potential for growth and development is very high. Furthermore, Portugal is becoming a leading country in renewable energy generation capacity and the development of equipment for clean energy production.

B. Diplomatic Relations

1. Explain any established diplomatic relations your country may have.

Besides being a member of the European Union, Portugal maintains diplomatic relations with almost all recognised states and participates in many international organisations such as the United Nations, the World Trade Organization, the Organization for Economic Cooperation and Development, and the North Atlantic Treaty Organization.

Portugal is also a founding member of the Community of Portuguese Speaking Countries, (Comunidade dos Países de Língua Portuguesa), comprising Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique, São Tomé and Principe, Timor-Leste and Portugal, which aims to strengthen friendship among nations where Portuguese is the official language.

Portugal has a diplomatic network of over 130 posts around the world.

2. Give addresses, and contact information for the embassies or consulates in your country.

Almost all recognised states have embassies or consulates in Portugal, for example:

- France – Rua de Santos-o-Velho, 5, 1249-079 Lisboa, 213 939 100
- Germany – Campo dos Mártires da Pátria, 38, 1169-043 Lisboa, 218 810 210
- Japan – Avenida da Liberdade, 245 – 6º, 1269-033 Lisboa, 213 110 560
- UK – Rua de São Bernardo, 33, 1249-082 Lisboa, 213 924 000
- USA - Avenida das Forças Armadas, 1600-081 Lisboa, 217 273 300


3. Are there prohibitions or restrictions on certain business dealings with the country?
There are no specific prohibitions or restrictions on business dealings, save for illegal transactions, e.g., illegal gambling. Several economic/industrial activities depend on licensing (pharmaceuticals, health care, etc).

4. Explain any travel restrictions to or within the country.

There are no internal travel restrictions in Portugal. In fact, all regions and areas of the country are in general easily accessible and no special measures or procedures need be undertaken for travelling within the Portuguese territory, namely for security or anti-terrorism reasons.

C. Government

1. Explain your country’s election system and schedule. Is there an anticipated change in the present government?

The basic principles and rules of Portugal’s political and legal framework are contained in the Constitution of 1976, as amended by the Constitutional Law no. 1/2005.

Portugal is organized as a Republic and the sovereign bodies are: the President of the Republic, the Parliament, the Government and the Courts.

The President is elected to a five-year term of office by direct universal suffrage and can only be re-elected to a single consecutive term. The Parliament is a unicameral body with up to 230 members who are elected to a four-year term.

Following the general election to the Parliament - and taking in consideration the results – the President of the Republic appoints the Prime Minister (normally, the president of the party which received more votes) who, in turn, names the remaining members of the Government to be appointed by the President and brings the Government’s programme before Parliament for approval.

There is no anticipated change in the present Government.

2. Is the present government stable? Briefly explain your country’s political history in the last decade.

In the last decade, the political landscape in Portugal has been dominated by the Socialist Party and the Social Democratic Party (in coalition with the Popular Party).
Pedro Passos Coelho, Portugal’s current Prime Minister and leader of the Social Democratic Party took office for the first time on June 11, 2011. Through a coalition with the Popular Party, a majority was formed in the Portuguese Parliament.

3. Explain your country’s judicial system.

- Is the judicial system generally perceived to be impartial?
  
  The Portuguese judicial system is perceived to be impartial.

- Are there separate tribunals depending upon the subject matter of the case?
  
  The Portuguese judicial system is fundamentally divided into ordinary and administrative jurisdictions.

  The administrative jurisdiction comprises the administrative and tax courts while the ordinary jurisdiction comprises the judicial courts.

  Among the judicial courts, which cover all civil and criminal matters over which other courts do not have specific authority, there are three levels of instances: First Instance Courts, Courts of Appeal (Tribunal da Relação) and the Supreme Court of Justice (Supremo Tribunal de Justiça). Among First Instance Courts, there are specialized areas of jurisdiction, e.g., criminal, labour, commercial and family courts.

  Within the scope of the administrative jurisdiction, there are also three levels of instance comprised of the administrative and tax courts, the administrative central courts (tribunais centrais administrativos) and the Supreme Administrative Court (Supremo Tribunal Administrativo).

  Aside from the above-mentioned jurisdictions, there are the Constitutional Court (Tribunal Constitucional), the Audit Court (Tribunal de Contas), the Jurisdiction Disputes Court (Tribunal de Conflitos) and the Peace Courts (Julgados de Paz), which judge specific civil disputes of a lesser value.

- Must disputes be resolved in the country?

  Portuguese courts have jurisdiction if so provided by national rules, EU regulations or international conventions. The most important provisions on international jurisdiction are to be found in European Council Regulation no. 44/2001, December 22, on Jurisdiction and Enforcement of Judgments in Civil and Commercial Matters and, where it does not apply, in Articles 65 and 65-A of the Code of Civil Procedure.

  Regulation (EC) 44/2001 has been recast into a new regulation (Regulation (EU) no. 1215/2012, December 12). The recast Regulation was published in the Official Journal on 20
December 2012 and came into force 20 days later but, with some minor exceptions, will only apply after 10 January 2015.

The party that wins a legal suit is entitled to be compensated by the other party for the costs incurred which may, subject to certain limits, include legal fees and other expenses related to the case. If the judgment only partially awards what has been requested, the costs are shared according to the degree of success obtained by each party.

- **Is there a political method of resolving disputes?**

  No.

- **Are alternative methods of dispute resolution permitted?**

  There are also alternative dispute resolution methods, such as mediation and arbitration, which have been growing in popularity. In particular, institutional and *ad hoc* arbitration is gaining growing acceptance as an alternative way of solving disputes, especially in commercial matters.

  Institutional arbitration is conducted according to the regulation of the respective Arbitration Centre. *Ad hoc* arbitration is not conducted under the supervision or administration of an Arbitration Centre and, therefore, requires the parties to determine the entire framework and rules to be applied.

  There are already several arbitration centres in Portugal which solve disputes in various matters, e.g., intellectual property and commercial disputes. The longest established and most reputable is the Commercial Arbitration Centre (*Centro de Arbitragem Comercial*) of the Lisbon Trade Association/Portuguese Chambers of Commerce and Industry.

- **How long does it take to resolve disputes?**

  It may take 9 to 36 months for a case to be decided by a First Instance Court. On average if the judgment is appealed, the resolution process may take another 6 to 12 months at the Appellate Court and a further 6 months at the Supreme Court. Since 1995, steps have been taken to reform the Portuguese judicial system. An increase in its efficiency and speed is the main goal.

- **Can foreign judicial decisions be enforced in the country?**

  Portugal has a long tradition of recognizing and enforcing the decisions of foreign courts. Portugal acceded to the Brussels Convention of 1968 on jurisdiction and the enforcement of judgements in civil and commercial matters through the San Sebastian Convention of May 26, 1989. Portugal also ratified the Lugano Convention of 1988 (which was replaced by the Lugano

In 1994 Portugal adhered to the New York Convention on the Recognition and Enforcement of Foreign and International Arbitral Awards.

In cases where foreign judgments and arbitration awards are not covered by any international convention or treaty or European Union regulations, their recognition and enforcement in Portugal are still possible, as long as they respect certain legal requirements and have been submitted to a Portuguese court for review and confirmation. The requirements for the confirmation of foreign decisions to be confirmed are defined in Article 1096 of the Code of Civil Procedure. These may be summarized as follows:

(i) Authenticity and propriety: there must be no doubt of the authenticity of the document in which the foreign judgment is contained, nor of the propriety of the decision;

(ii) Final judgment: the judgment must be definitive and final under the law of the country in which it was issued; it must not be subject to appeal;

(iii) Proper jurisdiction: the decision must have been issued by a foreign court whose jurisdiction was not established in circumvention of the law and it must not relate to matters comprised within the exclusive jurisdiction of Portuguese courts;

(iv) Absence of “Lis pendens” and “res judicata”: a judgment cannot be confirmed if the same action is pending before, or has already been adjudicated by a Portuguese court, unless the foreign court was the one where the case was first presented;

(v) Service of process: the defendant must have been duly served in accordance with the law of the country of the court of origin and the parties must have been given the opportunity to present their respective defense and treated equally;

(vi) Public policy: the foreign judgment must not contain any decisions that are contrary to the principles of Portuguese international public policy;

(vii) Domestic private law: if issued against a Portuguese national, a foreign judgment will not be confirmed, if the Portuguese party would have obtained a more favourable decision under Portuguese law, which is the governing law of the dispute according to the Portuguese rules of Conflict of Laws.
The request for confirmation can be denied on the grounds of a lack of one or more of the above-mentioned requirements. However, Article 1100 of the Code of Civil Procedure establishes that it is also possible to challenge a foreign judgment on some of the grounds stated in Article 771 of the Code of Civil Procedure (which concerns the civil procedure known as “revisão”), e.g., when it is proved, through a definitive criminal court decision, that the foreign judgment to be confirmed was issued as a result of a crime committed by the judge during the performance of his official duties or when a document is presented which was unavailable to the party in the proceedings in which the foreign judgment was issued. The latter applies if the document would be sufficient to modify the decision, thereby rendering it more favourable to the losing party.

With regard to recognition and enforcement of foreign arbitral awards, the new Portuguese arbitration law approved by Law no. 63/2011, December 14, largely replicates the New York Convention regime and expressly confers jurisdiction on a high court regarding issues of recognition.

- **Can decisions from the country be enforced outside the country?**

  Portuguese law does not prevent the recognition and enforcement of Portuguese decisions outside the country, except in the few cases where there is exclusive competence of Portuguese courts (e.g., enforcement proceedings concerning assets located in the Portuguese territory). As such, this question should be analysed according to the law of the country in question. However, as mentioned above, Portugal is a member of the European Union and, as a consequence, it benefits from a system of mutual recognition.

- **Are there different legal systems within the country or its political subdivisions?**

  No.

- **Can the investor choose to be subject to the country's jurisdiction or not?**

  According to Portuguese law, it is in principle possible for the parties to agree which court will have jurisdiction to resolve a particular dispute which may arise from a particular legal relationship provided that this relationship has connections with more than one legal system and certain requirements are met (e.g., the dispute must involve rights which can be freely determined by the parties and the case must not relate to a matter within the exclusive jurisdiction of the Portuguese courts) – cf. Article 99 of the Code of Civil Procedure.
4. **Explain your country’s legislative system.**

**Laws**

The Portuguese legal system is a Civil Law system which means that the great majority of the legal provisions are contained and enacted by statutes. Legislative powers are vested in several political bodies.

The legal system is hierarchical with the Constitution at the top of the hierarchy. The Constitution provides the basic regime relating to fundamental rights and duties, judicial guarantees and the relationship between the political bodies, the court system, the territorial division, the Constitutional Court and the procedure to amend the Constitution.

The political bodies empowered to pass legislation are Parliament and the Government.

Parliament has exclusive and non-exclusive legislative powers. Among the exclusive powers are the right to amend the Constitution, to ratify international treaties, and to approve the Budget Law.

Non-exclusive legislative powers may be delegated by Parliament to the Government, e.g., tax and criminal laws.

The Government has the power to legislate on all subjects that are not reserved to Parliament. The Government enacts legislation through the form of decree-laws and the respective regulations through ordinances (Portaria) and regulative decrees (Decretos Regulamentares).

The autonomous regions of Madeira and the Azores also have legislative powers on matters which do not fall within the exclusive competence of the sovereign bodies.

**European Union Law**

All legal provisions of Portuguese law must conform to European Union law given the principle of its primacy over the internal law of European Union Member States.

**International Treaties**

Once international treaties have been ratified, their provisions become an integral part of the Portuguese legal system.

**Customs and usages**

Usages have the force of law whenever so provided by law itself and as far as they are not contrary to “bona fide” principles.
Even though there is a generally recognized principle of no opposition to custom as a source of law (at least in cases not involving a \textit{contra legem} custom) it does not assume much practical relevance.

**Court Decisions and Doctrine**

Court decisions and doctrine play a secondary but significant role as they are helpful to the interpretation and application of the law. However, universally binding decisions of the Constitutional Court declaring the unconstitutionality of a law constitute genuine sources of law.

D. **Environmental Considerations**

1. **What is the public/government attitude toward environmental regulation?**

   Portuguese environmental regulations derive mostly from European Union regulations and for that reason are very broad and complete. Portuguese regulations apply the internationally acknowledged environmental principles: prevention; “\textit{polluter pays}”, strategic integration and precautionary principle.

   Moreover, following the general public’s growing environmental awareness the Government’s attitude towards environmental regulation is becoming increasingly more rigorous. A decrease of this environmental consciousness is not in sight. To the contrary, there is broad political consensus in favour of more stringent environmental regulations.

   Public entities are vested with wide powers, covering a broad range of environmental issues such as sustainable development, global warming, climate change, prevention of risks and pollution, waste management, licensing and inspection, liability for environmental damages, public health, etc. The civil and criminal courts at all levels are also involved in the enforcement of environmental law.

2. **Explain any environmental regulations.**

   The Portuguese Constitution establishes in Article 66 a fundamental right to a healthy environment.

   The said fundamental right is regulated by the Environmental Framework Law (\textit{Lei de Bases do Ambiente}) approved by Law no. 11/87, April 7, amended by Law no. 13/2002, February 19 and on a lower level by several specific statutes applicable to different elements, activities and procedures (in fact, most EU Directives are being implemented into Portuguese law), namely:

   (i) Decree-Law no. 173/2008, August 26, amended by Decree-Law no. 60/2012, March 14,
foresees the *Integrated Pollution Prevention and Control legal regime* establishing a number of measures in order to prevent or reduce air, water and soil pollution. This statute also establishes the *Single Environmental License*, which is applicable to the different industrial activities detailed in its annexes (including, among others, the energy, metals, mineral, chemical and waste management industries);

(ii) Decree-Law no. 102/2010, September 23, establishes the *Air Quality Framework Law*;

(iii) Decree-Law no. 78/2004, April 3, amended by Decree-Law no. 126/2006, July 3, establishes the *Air Pollution Prevention and Control legal regime* and defines specific preservation policies and environmental improvements;

(iv) Law no. 58/2005, December 29, amended by Decree-Law no. 130/2012, June 26, establishes the *Water Law* and previews the administrative procedures for access to and use of different types of water resources (i.e., underground water, surface water, sea water, lake water, river water, etc.);

(v) Decree-Law no. 178/2006, September 5, amended by Decree-Law no. 73/2011, June 17, establishes the *Waste Management legal regime* and imposes that all waste is given an adequate final destination under the responsibility of its producer and/or its holder (note that besides this general legal regime there are specific statutes dedicated to the management of particular types of waste, such as used oils, packages, batteries and hazardous waste, among others);

(vi) Decree-Law no. 254/2007, July 12, establishes the *Accidents Involving Hazardous Substances’ Prevention legal regime*;

(vii) Decree-Law no. 9/2007, January 17, amended by Decree-Law no. 278/2007, August 1, establishes the *Noise Prevention legal regime* and previews maximum admissible levels of noise considering each area’s features;

(viii) Decree-Law no. 140/99, April 24, amended by Decree-Law no. 49/2005, February 24, establishes the *Natural Habitats’ Conservation legal regime*;

(ix) Decree-Law no. 142/2008, July 24, establishes the *Wildlife and Nature Conservation legal regime* and previews different types of areas and sites for the protection of species and habitats;

(x) Decree-Law no. 166/2008, August 22, amended by Decree-Law no. 239/2012,
November 2, establishes the National Ecological Reserve legal regime and regulates the use of the land included in such reserve;

(xii) Decree-Law no. 73/2009, March 31, establishes the National Agricultural Reserve legal regime and regulates the use of the land included in such reserve;

(xii) Decree-Law no. 232/2007, June 15, amended by Decree-Law no. 58/2011, May 4, establishes the Strategic Environmental Assessment of certain plans and programs;

(xiiii) Decree-Law no. 69/2000, May 3, amended by Decree-Law no. 197/2005, November 8, establishes the Environmental Impact Assessment legal regime, defining the said procedure and the works and projects which are subject to it;

xiv) Decree-Law no. 147/2008, July 29, amended by Decree-Law no. 245/2009, September 22, establishes the Civil Liability for Environmental Damages legal regime;

(xv) Law no. 50/2006, August 29, amended by Law no. 89/2009, August 31, establishes the Environmental Infractions’ Framework Law;

(xvi) Decree-Law no. 38/2013, March 15, regulating the greenhouse gas emission allowance trading scheme as of 2013;

(xvii) Decree-Law no. 210/2009, September 3, amended by Decree-Law no. 73/2011, June 17, which establishes the legal regime for the creation, management and functioning of the organized waste market.

E. Intellectual Property

- Describe the law for the protection of intellectual property, including trademarks, copyrights, patents and know-how.

Over the last decades, Portugal has taken significant steps in perfecting its intellectual property law and making it more effective and, above all, reducing red tape associated with intellectual property applications. Particular emphasis has been given to promoting innovation and patent registration, given that Portugal’s performance in this area has been fairly modest in the past, as evidenced in international rankings.

Of all the legislation in Portugal dealing with the protection of intellectual property we highlight the Industrial Property Code, approved by Decree-Law no. 36/2003, March 5, as amended
– dealing with the protection of trademarks, patents, designs, logos, etc. – and the Copyright Code, approved by Decree-Law no. 63/85, March 14, as amended.

Apart from these two codes, there are several laws and decrees covering specific aspects which, where applicable, we will refer to below.

**Industrial Property Code**


The Industrial Property Code contains the vast majority of the national legal rules related to all types of industrial property rights, namely patents, SPCs, utility models, designs, semiconductor masks, trademarks, logos, appellations of origin, geographic indications and rewards. Naturally, when analyzing a specific intellectual property issue in Portugal, it is often necessary to combine the Industrial Property Code with other international treaties, community regulations and domestic laws on specific issues.

**Trademarks**

In general terms, the protection granted to a trademark is dependent on its registration for specific products or services, as classified in accordance with the Nice Agreement of 1957. The application for registration of trademarks must be submitted to the Portuguese Institute of Industrial Property (Instituto Nacional da Propriedade Industrial/INPI) and the registration process takes on average around four months when no opposition is raised by third parties and if no clarification requests are made by the INPI.

An application must contain the following:

(i) Complete identification of the applicant;
(ii) Identification of the trademark and its graphic representation (should it be a device mark);
(iii) Description of the products/services;
(iv) Indication of any claim in relation to colours (if desired);
(v) Priority claim, if any;
(vi) Power of Attorney.

A foreign entity may register a trademark in the same terms and conditions as any Portuguese entity.
Once granted, the registration of a trademark is valid for renewable periods of 10 years. Currently the fees for each national registration in one class of products and services amount to EUR 120, and the renewal fee is the same.

Special protection is provided for “well known” trademarks and for trademarks of “great prestige”. In the case of the former, the interested party has the right to oppose any registration by a third entity of an identical or similar trademark which may be confused with the well-known mark, even if it is unregistered. In order to proceed with this opposition, the opposed trademark must identify identical or similar goods as the “well-known” trademark and the interested party has to request its protection in Portugal. In the case of “great prestige” trademarks, the holder of these types of trademarks can oppose the registration of an identical or similar trademark by a third entity in all classes of goods and services. All that is necessary is that he applies for the protection of the trademark in Portugal.

**Copyrights**

The current Copyright Code was approved by Decree-Law no. 63/85, March 14, and has since been amended several times, in order to adapt it to several European Union directives and other international treaties ratified by Portugal.

Works subject to protection under the Copyright Code are any intellectual creations in the literary, scientific and artistic domain. The copyright is granted in Portugal, irrespectively of any registration (although it is advisable to proceed with such registration).

The Copyright Code also conferred protection for the first time in Portugal to performing artists, phonogram or video producers and broadcasting organizations under the category of “neighbouring rights”.

The content of a copyright is structured in Portugal in clearly dualistic terms. Indeed, Article 9 of the Copyright Code states that “(a) copyright encompasses rights of a patrimonial nature and rights of a personal nature, designated as moral rights”. This distinction is important at a practical level, since it relates to a separate framework, notably with regard to duration and transferability.

The patrimonial content of a copyright is mainly defined as the exclusive right to economic usage of the work. Moral rights, on the other hand, are those more closely linked to the individual author, notably the right to claim authorship of the work, the right to ensure its authenticity and integrity, the right to disclose (or not) the work, and the right of withdrawal.
The holder of the patrimonial rights to a protected work is entitled to use and exploit them by whatever means, notably through licenses, and, in general, the holder can be assigned or subject to any encumbrance, wholly or partially. The moral rights, however, cannot be sold, renounced or extinguished.

A patrimonial copyright in Portugal is granted for a specific period of time, after which the work falls into the public domain and can be used by any person. Currently, the general period of copyright protection is 70 years counted from the death of its author. In what concerns “neighbouring rights”, the period of protection is, in general 50 years counted from the performance (artists), fixation or broadcasting (phonogram or video producers, broadcasting organizations).

In terms of ownership of copyright, certain specific regimes are worth highlighting. On the one hand, it must be noted that unlike many Anglo-Saxon countries, the copyright over films or movies is granted to the director, script-writer and soundtrack composer and not to the producer, unless previously contractually arranged.

On the other hand, the rights over the work created by an employee during an employment agreement, or work-for-hire, will be granted to the author or employer, in accordance with what has been agreed before the creation of the work. In the absence of such an agreement, it is assumed that the rights belong to the intellectual creator. This is the general regime laid down in Article 14 of the Copyright Code, although there are special regimes for specific works, e.g., software and photographic works.

Portugal has been closely following the profound changes that have occurred in the copyright and related rights environment. As a Member State of the European Union, it has implemented into national law the several directives that have been recently enacted on copyrights and other related matters, such as electronic commerce, digital signatures, and protection of databases.

**Patents**

The Industrial Property Code also provides for the patenting of any new invention. For a patent to be granted under Portuguese law, the invention must be novel (i.e., not form part of the state of the art), must imply an inventive step, and also must have industrial application. Software cannot, *per se*, be patented and is typically protected as copyright, although under specific provisions of copyright law.
The application for a patent in Portugal must be submitted to the INPI and must contain the following (it should be noted that Portugal now accepts Provisional Patent Applications – PPAs – whereby a priority date can be obtained by presenting a description of the invention):

(i) Complete identification of the applicant and the inventor, if not the same;
(ii) Description of the invention;
(iii) Summary of the invention;
(iv) Claims;
(v) Drawings explaining the description;
(vi) Title of the invention;
(vii) Any claim to a possible priority right under Article 4 of the Paris Convention.

After publication of the application, which typically occurs 18 months after the application date, third parties have an opportunity to file oppositions, after which, the application and invention are examined by the INPI, which can either grant the patent or invite the applicant to amend the application. If the examination concludes that the invention does not meet the necessary requirements, the patent application will be refused. On average the whole process can take between 2 to 4 years, and sometimes even more.

Once approved, a patent is valid for a period of 20 years from the date of its application. Currently, the official fees for each patent filing amount to EUR 101.40 and the annuities vary from Euro 50 in the fifth year (the first year in which annuities are due) to EUR 700 in the 20th year.

The general rule on the ownership of patents is that the inventor is entitled to it. However, Article 59 of the Industrial Property Code provides that the employer has the right to the patent in relation to any inventions created by an employee during an employment agreement, provided that the inventive activity is expressly envisaged in the employment agreement, and this inventive activity is specially remunerated.

It should be highlighted that Law no. 62/2011, December 12, has now imposed mandatory arbitration for intellectual property disputes between reference and generic medicines, namely regarding the infringement of pharmaceutical sector patents.

**Know-how and trade secrets**

As is generally recognized, know-how is non-patented technical information and knowledge. Know-how contracts are often used in Portugal as a means of importing knowledge and technology.
They normally come attached to patent licensing agreements or, more informally, within group arrangements where the parent company of a Portuguese entity brings along its technical knowledge/know-how.

On the other hand, trade secrets are technical know-how that is purposefully not patented and protected by maintaining it secret. The risk with trade secrets is that the holder cannot prevent third entities from using them provided that they were lawfully obtained or discovered. With the exception of certain provisions concerning unfair competition – under which the unauthorized access of third party trade secrets gives rise to misdemeanour and/or civil liability proceedings - there is no other specific protection afforded to trade secrets under Portuguese law.

- **Does the country subscribe to international treaties?**

Portugal is a founding member of many international treaties concerning intellectual property and is today party to the vast majority of international and regional treaties (such as the European Patent Convention). Additionally, as a Member State of the European Union, Portugal has been implementing the applicable directives and is bound by other obligatory intellectual property law in force within the European Union (e.g., EU Regulations).

More specifically, we highlight the following major treaties concerning intellectual property (as amended):

(i) Paris Convention of 20 March, 1883, for the protection of Industrial Property;
(ii) Madrid Agreement of 14 April, 1891, concerning the international registration of trademarks;
(iii) Madrid Protocol of 17 June, 1989, concerning the international registration of trademarks;
(iv) Nice Agreement of 15 June, 1957, on the international classification of products and services;
(vii) GATT Agreement/Uruguay Round on Trade Related Aspects of Intellectual Property (TRIPs);
(viii) Berne Convention on the protection of literary and artistic works;
(ix) Universal Copyright Convention;
Amongst the major treaties that Portugal is not a member to, we would highlight simply:

(i) The Hague treaty regarding the international registration of designs;
(ii) Patent Law Treaty (signed but still un-ratified);
(iii) Unified European Patent Court (signed in February 2013 but still not ratified).

- **Are there substantive prior approvals by national investment boards?**

  National investment boards intervene in the intellectual property scene merely by providing funding to interested parties that request it or participate in prizes, competitions, etc. Typically the funding can be for R&D or protecting the technology domestically or abroad.

  Generally, investment boards have no influence on the type of intellectual property being produced or protected beyond the funding element.

- **What are the notarization requirements?**

  Most acts before the Portuguese Institute of Industrial Property or the General-Inspectorate of Cultural Affairs do not need to be notarized. However, on occasion, when it is necessary to present original authenticated documents, notarization is often necessary. Most documents can be authenticated by notaries, lawyers or trade boards. Portuguese public authorities frequently request that foreign public documents, for example, patent or trademark priority documents carry the apostille of the Hague. Private agreements, such as licensing agreements between two private companies, do not require notarization in order to be valid, but it is often advisable for a notary or lawyer to recognise the signatures of those that enter into those agreements in case of disputes in the future.

  Amongst the acts that do require notarized public deed, we highlight the full assignment of copyright on a literary or artistic work. Failure to abide by these formalities will render the agreement null and void.

- **Are there regulatory guidelines for licenses?**

  Portuguese intellectual property law contains some legal rules that apply to licensing agreements in order for these to be valid, for example, they must be in written form and, to be effective vis-a-vis third parties, the licenses must be recorded with the INPI. Likewise, when
discussing a licensing agreement, it is important to clarify in advance whether the license is exclusive or not, and also whether the licensor retains the right to exploit the licensed rights directly. In the absence of a specific clause, the law assumes that the licensor is entitled to keep the exploitation of the licensed rights. However, there are no regulatory guidelines per se.

Certain industries or sectors may follow highly standardised licensing terms and conditions, but there is no regulatory body or rules that apply to licenses in general.

- **Are there specific exceptions or requirements relation to a particular product(s)?**

  Portuguese intellectual property law is general and abstract and does not identify any special requirements for particular products, bar a few exceptions (for example, the need to register the name of a periodical publication in order for it to be protected or the above mentioned legislation for disputes between reference and generic medicines).

  Far more common is for the legislation covering a particular product or sector to identify requirements related to intellectual property. By way of example, we highlight pharmaceutical products, wines, and travel agencies. Likewise, certain regional and local products may only display appellations of origin or geographic indications if they prove their origin from those regulated geographic areas.

  In short, when deciding to produce or sell a product or provide a service in Portugal, it is advisable to analyse the specific related law so as to make sure that there are no special intellectual property requirements that must be complied with.

- **When are royalties from licenses deemed to be excessive?**

  From a substantive and formal intellectual property law perspective, there are no legal limits in relation to the amount of royalties, since it is entirely up to the parties to agree on the royalty arrangement most suited to them.

  One must note, however, that from a tax or competition perspective, some royalties may be deemed to be excessive and transfer-pricing rules must be complied with. It is always advisable to obtain tax advice before entering into any licensing arrangements in Portugal.

- **Do local antitrust or competition laws apply to licenses?**

  Under Portugal’s national laws, intellectual rights are subject to and must be exercised in accordance with competition law provisions. This is particularly important if we take into account that, by its very nature, an intellectual property right confers a monopoly to its holder.
The issue is usually dealt within the European Union context, *inter alia*, in relation to preventing “parallel imports”. Today it is clear, under national laws, that intellectual property rights do not confer powers to prevent parallel imports nor can they be used to infringe or evade competition rules.

The Industrial Property Code contains specific limitations on intellectual property rights, derived from competition rules, such as the concept of exhaustion of a trademark. According to Article 259 of the Industrial Property Code, the owner of a trademark cannot prevent the use of its trademark for products sold within the European Union with that same trademark, provided there was a previous authorization by the owner of the trademark. The same concept applies to patents.

Therefore, when setting up a licensing network involving Portugal, it is important to check whether this network complies with competition laws. If there are doubts about the lawfulness of the network, it is advisable to clarify such doubts, even if on an informal basis, with the national competition authority.

The Industrial Property Code also includes a specific article on “unfair competition”, which is defined as any act contrary to the rules and honest practices of any type of activity conducted by any entity with the intention to cause damages to any competitor and to obtain an illegitimate gain. Such acts are subject to misdemeanour proceedings. As examples of unfair competition, Article 317 of the Industrial Property Code includes, among others, the following:

(i) actions capable of creating confusion with the undertakings, products or services of any competitor;
(ii) false statements in order to discredit any competitor;
(iii) non-authorized claims or references;
(iv) false indications of origin;
(v) illegal possession, use or disclosure of any trade secrets belonging to a competitor.

- What typical agreements do foreign corporations enter into with their wholly owned subsidiaries?

Portugal remains today a net importer of intellectual property and much of the intellectual property is introduced into the country via foreign corporations that either have or not wholly own subsidiaries in Portugal.
The practice of setting out the terms and conditions of the use of the parent corporation’s intellectual property by a wholly owned subsidiary is still not very widespread. Often the subsidiary will, in practice, use the parent company’s trademarks, copyrights, patents and know-how without a formal agreement.

Nevertheless, large and medium sized economic groups are increasingly becoming aware of the advantages of entering into licensing agreements, namely for the protection of those intangible assets and the tax efficiencies within the group.

III. INVESTMENT INCENTIVES

A. Explain any export incentives or guarantees.

- Are there tax incentives for exports?

There are no specific tax incentives for exports. Notwithstanding, contractual tax incentives are granted to the direct investment projects in specific activities carried out by 31 December 2020 by resident companies abroad (excluding free-trade zones and tax havens) involving at least EUR 250,000 and designed to internationalize the Portuguese economy. These incentives are granted for a maximum period of 5 years and include:

(i) 10% to 20% investment tax credit, limited each year to the lower of 25% of the IRC liability and EUR 997,595.79;

(ii) a full exemption for dividends received by a resident parent from its 10% or more owned non-resident subsidiary, provided that the investment abroad resulted in a newly created non-resident company or in the acquisition of an existing non-resident company and that the 10% holding is maintained uninterruptedly during at least one year prior to the distribution or, if the 10% holding is held for a shorter time, provided that such holding is maintained for the time required to complete the above referred one year period.

With respect to investment projects in EU Member States, the contractual tax incentive scheme is available only to small and medium-sized enterprises, as defined by European law.

- If so, are they limited to certain types of products?

The above mentioned contractual tax incentives are available to investment projects in the mining industry; manufacturing industry; tourism; agriculture, fisheries, agro-livestock and forestry; building construction; public works and connected architectural and engineering activities; wholesale
and retail trade; research and development and high-tech activities; environment; energy and telecommunications; transportation activities; information technology, audio-visual and multimedia production.

- **Is export financing available from government or private sources?**

Portugal offers a wide range of investment incentives to domestic and foreign investors. Incentives are, as a general rule, provided by the central government, the regional governments of the Azores and Madeira and by municipalities that may indirectly provide export financing, namely by providing financial incentives, job creation incentives, training and tax incentives to activities with a significant export nature.

The Portuguese Institute for the Support of Small and Medium Enterprises and Innovation (IAPMEI) (www.iapmei.pt) has several incentive programs which include credit facilities, notably for exports, as detailed below. For instance, in programs “PME Crescimento” and “PME Crescimento 2013” the total credit facilities amount to EUR 4,500 million from which EUR 1,750 million is specifically allocated to exporting companies.

In addition, for relevant investments over EUR 5 million, the following tax incentives may also be provided: (i) tax credit from 5% up to 20% for relevant applications (upon requirements); (ii) exemption or reduction of municipality tax (IMI); (iii) exemption or reduction of property acquisition tax (IMT); and (iv) exemption from stamp tax duty.

- **If so, what forms of financing or guarantees are available?**

There are, depending on the relevance of the sector and of the investment nature, the following tax incentives (i) tax credit from 5% up to 20% for relevant applications (upon requirements), (ii) exemption or reduction of municipality tax (IMI), (iii) exemption or reduction of property acquisition tax (IMT), and (iv) exemption from stamp tax duty.

In addition to the above referred tax incentives, several credit facilities for Small and Medium Enterprises are also available, such as “PME Crescimento 2013”. In order to access such credit facilities, the companies must submit an application before one of the credit institutions indicated by IAPMEI for these purposes. Please also see section B below.

- **Is there any governmental insurance for exports?**

Yes. The State offers support, guarantees, and incentives for exports. In that ambit, the State indirectly provides, through a leading private insurer in Portugal named “COSEC - Companhia de
Seguro de Créditos, S.A.”, for insurance schemes for risks associated with exporting and investment, especially to political risk countries. Such schemes are offered by COSEC and include export credit insurance, financial credits insurance, state guaranteed bond insurance and investment insurance. In particular, the export credit insurance scheme covers, in an individual operation exporting goods or services, non-compliance on the part of the public or private importer established in a country deemed to be a political risk, caused by matters of a political, monetary and catastrophic nature, which may also include commercial risk. The scope of credits insured is defined on a case-by-case analysis that includes capital and remuneratory interest.

- **Must a national be a participant in the enterprise in order for the investor to benefit from these incentives?**

  No. Foreign nationals have the right to establish themselves in all economic sectors open to the private sector, as well as to benefit on a transparent and non-discriminatory basis from the incentives granted by the Portuguese State.

  One should note, however, that private ownership (national or foreign) is limited in the following sectors: basic sanitation, railroad transport (in activities defined as a public service) and maritime ports – as a rule, in these activities private entities can only be active under concession contracts.

**B. Explain any grants, subsidies or funds your country offers foreign investors.**

- **Are grants and subsidies restricted by the type of activity?**

  There are a significant number of support instruments available in the context of the National Strategic Reference Framework (Quadro de Referência Estratégico Nacional/QREN) (www.qren.pt), a program that provides the framing for the application of the European Union policy for economic and social cohesion in Portugal for the 2007-2013 period. The Thematic Operational Agenda for the Strengthening of Economic Competitiveness Factors includes, namely, incentives for innovation and scientific and technological development and incentives for business modernisation and internationalisation and the attraction of qualifying foreign direct investment as described below.

  **Indirect support**

  To support the creation of new businesses the Portuguese Institute for the Support of Small and Medium Enterprises and Innovation (IAPMEI) (www.iapmei.pt) created the Small and Medium
Enterprises credit line programme which provides access to financing as well as help in obtaining risk capital or guaranteed credit. The program aims to facilitate the Small and Medium Size Enterprises’ (SME) access to bank credit, including interest rate subsidies and the reduction of the risk of banking transactions through the use of a guarantee facility of the National Mutual Guarantee System to cover up to 50% of the outstanding capital. Furthermore, the so-called SME Guarantee Programme aims to strengthen SME’s credit insurance mechanisms by providing support at the level of guarantees, provided by the National Mutual Guarantee System, or directly by the State, allowing businesses to access instruments of credit insurance provided by national insurance companies on more favourable terms.

**Direct support**

The Professional Job and Training Institute (Instituto do Emprego e Formação Profissional/IEFP) ([www.iefp.pt](http://www.iefp.pt)) has a programme to support local employment initiatives. New business owners can obtain two years of guaranteed financing for business operations. The IEFP also provides financing for contracting staff in professional training programmes, such as the programme to stimulate job offers. The Portuguese Investment Agency for Trade and Investment (AICEP) ([www.portugalglobal.pt](http://www.portugalglobal.pt)) can assist companies in the application for tax benefits.

Under QREN, a program was also created called “SME Qualification-Incentive system” for qualification and internationalisation of SMEs to support various investment projects, including internationalization and the “System of Incentives for Innovation” to support investment in innovation focused on the production of new goods, services and processes.

In June, 2012, as a result of the merger of the three state-backed Venture Capital & Private Equity firms, AICEP Capital Global (ACG), InovCapital (IC) and Turismo Capital (TC), a new Venture Capital and Private Equity company called Portugal Capital Ventures - Sociedade de Capital de Risco, S.A. was incorporated. The activity of this new company is focused on investments in innovative, scientific and technology-based companies as well as on companies from the more traditional Portuguese Tourism and Industrial sectors with significant competitive advantages and export oriented to global markets. One of the funds managed by this new company is focused on the expansion and internationalization of Portuguese companies.

Industrial research and pre-competition development are also supported by the “Incentive System for Business Modernisation” which aims at boosting productivity and competitiveness.
In this context investors (domestic or foreign) that wish to invest in Portugal can apply for subsidies or funds in very different areas, such as trade, industry, services, tourism, transport and logistics.

**Projects of Potential National Importance**

There is also a fast-track system of incentives for Projects of National Importance (*Projectos de Potencial Interesse Nacional/PIN*). The system is not applicable to certain sectors, namely commerce, finance, real estate, education and health and social work. Projects can be classified as PIN and qualify for special support if they fulfil the following criteria: (i) they involve an overall investment of more than EUR 10 million; (ii) they can be shown to be economically viable, and the investor is suitably experienced and reputable; (iii) they seek to establish a production base that is strongly integrated into the Portuguese market and a generator of gross added value; (iv) they are in line with the development priorities defined in current strategic planning documents, in particular: QREN, Technology Plan, National Programme for Spatial Planning Policy, National Strategic Plan for Tourism, National Energy Strategy, Logistics Portugal; (v) they can demonstrate adequate environmental and spatial sustainability; (vi) they will have a positive impact on at least five of the following areas: (a) the production of innovative, tradable goods and services that give them a clear advantage over the competition in markets with potential for growth; (b) spill-over effects in upstream and downstream activities, namely in small and medium-sized enterprises; (c) the introduction of innovative technological processes or collaboration with entities in the scientific and technological establishments; (d) the creation of a minimum of 50 direct and qualified (by certified trainers) jobs; (e) forming part of regional development strategies or contributing to the economic growth of interior or less developed regions; (f) the balance of foreign trade, namely by increasing exports or reducing imports; (g) energy efficiency or favouring renewable energy sources.

Projects involving an investment of EUR 10 million or less can also be recognised as PIN if (i) they include a strong element of R&D or applied innovation, or (ii) if they are of manifest value to the environment, or (iii) if they are strongly driven to export, or (iv) if they involve relevant production of tradable goods or services which allow replacing imports. Such projects must also fulfil the conditions stated above. Projects in the tourism sector also qualify for PIN.

In this regard, projects qualified as PIN in accordance with the above referred criteria may also be qualified as PIN with strategic importance (PIN+) if they fulfil the following criteria: (i)
involve an overall investment of more than EUR 200 million, or, in exceptional cases, more than EUR 60 million, in case of projects of indisputable excellence related with their strong innovative content and technological singularity or, in case of touristic projects, whenever such projects promote the uniqueness of Portugal and decisively contribute to the requalification, to the increase of competitiveness, and to the diversification of the supply in the regions where the projects are implemented; (ii) involve the use of eco-efficient technologies and practices which allow achieving high environmental performance levels; (iii) the projects promote energetic efficiency and rationality; (iv) they are in line with the development priorities defined in current strategic planning documents, in particular: QREN, Technology Plan, National Programme for Spatial Planning Policy, National Strategic Plan for Tourism, National Energy Strategy, Logistics Portugal; and (v) they can be shown to be economically viable, and the investor is suitably experienced and reputable. PIN+ is subject to faster and more simplified administrative procedures thus, generally, allowing a complete analysis of such projects within a time period not exceeding 120 days.

It is worth adding, with regard to QREN, that a new EU Cohesion Policy for the time period 2014-2020 is currently underway. The new proposals are designed to reinforce the strategic dimension of the policy and to ensure that EU investment is targeted on Europe’s long-term goals for growth and jobs (“Europe 2020”). In accordance with the European Commission Press Release of 6 October 2011 (available in http://ec.europa.eu/regional_policy/what/future/proposals_2014_2020_en.cfm), the final allocations by Member State and lists of eligible regions by category will only be decided upon the final adoption of the legislative package on the EU Cohesion Policy for 2014-2020.

- What is the process for obtaining approval for these grants or subsidies?

The submission must be made in writing to the relevant public authority. The following public agencies are, as a general rule, the most common addressees of the subsidy application:

- Agência para o Investimento e Comércio Externo de Portugal, E.P.E. (AICEP Portugal Global - Business Development Agency) (www.portugalglobal.pt);
- IAPMEI – Instituto de Apoio às Pequenas e Médias Empresas e à Inovação, I.P. (Institute for the Support of SME and Innovation) (www.iapmei.pt);
- Turismo de Portugal, I.P. (The National Tourism Authority) (www.turismodeportugal.pt)
(iv) Direcção-Geral de Ordenamento do Território e Desenvolvimento Urbano (Directorate-General for Spatial Planning and Urban Development) (www.dgotdu.pt);

- **How long does it take to receive approval?**
  
  The timeline for a final decision is dependent upon the complexity of the file. For instance, if the file involves the negotiation of the type of incentives and respective amounts, a lengthier period of time may be needed for the final approval. A final decision can take from one to four months (in the most complex submissions).

- **Can the investor receive loans from the government or governmental agencies?**
  
  Yes. The Portuguese Institute for the Support of SME and Innovation (IAPMEI) (www.iapmei.pt) has several incentive programs which include credit facilities. For instance in programs “PME Crescimento” and “PME Crescimento 2013” the total credit facilities amount to EUR 4,500 million.

- **Must a national be a participant in the enterprise in order for the investor to receive these grants or subsidies?**
  
  No. Foreign nationals have the right to establish themselves in all economic sectors open to the private sector, as well as to benefit on a transparent and non-discriminatory basis from the incentives granted by the Portuguese State.

  In addition, new legal provisions made available, as a rule, the possibility of applying for a residence permit for pursuing investment activities (“Golden Residence Permit for Investment Activity”) to those who have entered the country regularly (v.g., holders of valid Schengen Visas or beneficiaries of Visa exemption) by transferring capital, creating jobs or acquiring real estate with productive periods of stay in Portugal. The holders of the Golden Residence Permit for Investment Activity have, as a rule, the right to family regrouping, and may gain access to a permanent residence permit, as well as to Portuguese citizenship.

C. **Explain any national tax incentives for foreign investors.**

- **Are the incentives restricted by the type of activity?**
• Are the incentives restricted by the duration of the activity?
• What is the process of application?

Non-habitual residents tax regime

A special income tax regime is available to non-habitual resident investors. Non-habitual resident individuals are defined as individuals who have become residents of Portugal on or after January 1, 2009, provided that they had not been residents in Portugal during the previous five years. Under this regime, non-habitual residents are eligible for a 20% income flat tax rate on their Portuguese-source employment income as well as business and professional income, provided that they engage in scientific or highly technical activities.

Contractual tax incentives

Contractual tax incentives are granted for industrial investment projects in specific activities (such as extracting and manufacturing activities, tourism, computer-related activities, agriculture, fisheries, agro-livestock and forestry activities, R&D activities, and information technology and audio-visual and multimedia production), carried out by 31 December 2020 if they involve at least EUR 5 million and are deemed to be of a strategic interest to the domestic economy and encourage job creation, technological innovation and domestic scientific research. The incentives, granted by the central government on a case-by-case basis for a maximum period of 10 years, include a 5 to 20 per cent investment tax credit and an exemption from or reduction of municipal tax on immovable property, municipal tax on the transfer of immovable property, and stamp duty.

The companies that promote such investments shall submit the candidacy file in “ICEP-Investimentos, Comércio e Turismo de Portugal”, the Portuguese entity responsible for the evaluation of the projects.

Incentive scheme for Madeira/Azores free zones

Portugal has two free trade zones (International Business Centers): Madeira and Santa Maria (Azores).

(a) The financial incentives

These incentives take the form of non-repayable cash grants amounting to:

(i) With respect to the Madeira free zone:

○ up to 50% of the personnel training-related costs
○ up to 50% of the investment costs in actual acquisitions of energy-saving manufacturing equipment bringing about energy savings

(ii) With respect to the Santa Maria free zone:

○ up to 100% of the professional training costs of the Portuguese employees resident in the Azores region

○ up to 50% of the rental costs of buildings or sites during a maximum period of 5 years

○ up to 50% of the building costs of industrial plants

○ up to 50% of the purchase costs of new equipment and machinery needed for the establishment, conversion or expansion of production facilities.

Moreover, foreign companies registered in the Madeira or Santa Maria free zones and their shareholders/quota holders and bondholders are guaranteed: (i) freedom of repatriation of capital and profits; (ii) freedom from restrictions on transfer transactions; (iii) freedom from restrictions on the importation of capital; and (iv) simplification of related administrative procedures.

(b) The tax incentives

These incentives are applicable to (i) firms establishing business activities in the Madeira or Santa Maria free zone, (ii) their corporate shareholders/quota holders, (iii) other qualifying situations, and (iv) international trade-related benefits.

(i) The tax regime of the IBC of Madeira applicable from 2007

New companies licensed to carry on industrial, commercial and shipping activities, as well as other services not excluded from the tax benefits regime between 1 January 2007 and 31 December 2013 will be able to enjoy a reduced rate of corporate income tax of 5% in 2013-2020.

Access to the scheme will be restricted to companies that meet the specific eligibility criteria based on the number of new permanent jobs created. Companies that create more than five jobs will have access to the scheme without further conditions, while those that create between one and five jobs will be eligible only if they make a minimum investment of EUR 75,000 during the first two years of business. In all cases, the tax benefits will nonetheless be limited to a ceiling placed on the tax base, which ranges from EUR 2 million (where less than three new jobs are created) to EUR 150 million (where more than 100 new jobs are created).
Moreover, access to the international services centre is also restricted to the activities included in the list drawn up by the Portuguese authorities on the basis of the statistical classification of economic activities. This list includes a range of activities, namely, trading, holding, e-commerce transactions, transport and communications, real estate, renting and services to business and sporting activities. However, the list explicitly excludes all financial and insurance intermediary activities, financial and insurance auxiliary activities and intra – group centres.

Finally, the dividends received by non-resident shareholders from Madeira companies are exempt from withholding tax in Madeira provided the income obtained by these entities derives from operations carried out within the legal framework of the IBC of Madeira. In addition, non-resident shareholders will also benefit from an exemption on withholding tax on interest received from loans, bonds and advances of capital granted to IBC companies.

All entities that have been licensed under one of the previous tax regimes may benefit from the new regime from January 1, 2012.

(c) International aspects

As far as international aspects are concerned, one should point out the companies established in the IBC of Madeira benefit from the following advantages:

(i) IBC authorized by the European Commission

As mentioned above, the IBC of Madeira is firmly recognized and authorized by the European Commission. This Centre represents a temporary regional aid scheme enacted by the Portuguese State under the authorization of the EU Commission on the grounds of the European treaties. This made Madeira an entirely EU business centre with increased respectability, and as such it is not included among those countries or territories regularly listed as tax havens.

This authorization is also relevant as far as the application of CFC rules is concerned. In fact, in view of the application of the principle of supremacy of EU law over national law, the tax authorities of the jurisdiction of the EU investor in Madeira may not, in principle, apply CFC rules to neutralize the effects of the IBC tax measures on an investor's income. In fact, being authorized by the EU Commission on the grounds of EU law, any attempt to override the tax incentives granted by the IBC of Madeira through the application of CFC rules should be considered as a violation of EU law, (namely a violation of the supremacy of EU law over national law) not to mention the violation of international tax law (e.g., Article 7 of the Double Tax Treaty may apply).
(ii) Madeira is part of Portugal

Madeira is an autonomous region of Portugal and through Portugal has the advantage of having full member status within the European Union. This places Madeira in a unique position in that it is a recognized International Business Centre but falls within the European Union.

In fact, companies licensed to operate in the IBC of Madeira have the advantages of free circulation of goods, services, people and capital that apply to any EU company and should also benefit from the applicable EU directives, namely the Merger Directive (90/434/EEC), the Parent Subsidiary Directive (90/435/EEC), and in the near future the Savings Taxation Directive (2003/48/CE) and the Interest/Royalties Directive (2003/49/CE).

In addition, the IBC companies are also subject to VAT (6th EC Directive) as are other EU companies and can also benefit from the advantages of using the European single currency – the EURO.

(iii) Madeira companies benefit from the Double Taxation Treaties entered into by Portugal

Madeira is an integral part of the Portuguese territory and accordingly Madeira companies are eligible for tax treaty benefits, for all purposes, in most of the Double Taxation Treaties entered between Portugal and third countries.

In fact, all treaties specify that “Portugal” include the continental part of the territory and the islands of the Azores and Madeira. Until now, Portugal has signed 53 tax treaties and almost all of them allow Madeira companies to benefit from the treaties’ provisions.

Therefore, companies established in the IBC of Madeira may take advantage of substantial tax reductions on interest, royalties and dividend payments granted by Double Taxation Treaties, as well as tax sparing clauses.

D. Explain any regional tax incentives open to foreign investors.

- Are there tax incentives for the investor that exists only in certain regions of the country?

The autonomous region of Azores has a reduced general corporate income tax (IRC) rate. The general tax rate of 25% is reduced to 17.5% in Azores.

- Does the investor need to receive approval to be eligible for these incentives?
Any company with a legal seat, place of effective management or permanent establishment in the autonomous region may benefit from the reduced tax rate.

- Are the incentives restricted by the type of activity?
  No.
- Are the incentives restricted by the duration of the activity?
  No.
- What does the process of application involve?
  Not applicable.

IV. FINANCIAL FACILITIES
A. Banking/Financial Facilities

- What kind of financial institutions exist?

  The legislative diploma dealing with financial institutions is Decree-Law no. 298/92, December 31, as amended from time to time, also known as the Legal Framework for Credit Institutions and Financial Companies (RJICSF). In such statute, financial institutions are segregated into two categories, namely, credit institutions and financial companies. The former encompasses banks, savings banks, the central for mutual agricultural credit and other mutual agricultural credit institutions, credit financial institutions, investment companies, financial leasing companies, factoring companies, financial companies for leveraged acquisitions, mutual guarantee companies and any other undertakings which meet the definition of a credit institution and are classified as such according to the law whereas the latter category comprises dealers, brokers, foreign-exchange or money-market mediating companies, investment fund management companies, credit card issuing or management companies, regional development companies, exchange offices, securitization fund management companies and other companies classified as such by law.

  Under Portuguese law there is a *numerus clausus* in relation to credit institutions and financial companies as well as to respective scope and permitted activities. Thus, in order to be able to carry out activities regulated by the RJICSF, the undertaking must take one of the prescribed legal types and be granted respective authorization by a competent regulator – *in casu*, the Bank of Portugal.
One particular credit institution is the centre for mutual agricultural credit and other mutual agricultural credit institutions, which may be of interest when considering financing for agricultural ends. In order to be able to be granted credit by such entities, one has to be an associate of said institutions. Please bear in mind that such financial institutions have certain limitations as well as certain specificities, notably, with regards to the financial instruments such entities may deal in.

- **Must the investor maintain a bank account in the country?**

  There is no general legal requirement making it mandatory for an investor to maintain a bank account in Portugal. Yet, when the investor has an undertaking in Portugal it should maintain a bank account in Portugal for practical reasons. That being said, there are no specific transactions/operations which may only be carried out if anchored in a bank account. Portfolio management agreements whereby the banks manage a portfolio comprised of financial instruments for and on behalf of the client are good examples of the foregoing.

- **What are the requirements for opening a bank account?**

  In order to open a bank account in Portugal and in person, with regard to each of the account holders or persons with the powers to manage the accounts, the following data is required:

  (i) In case of natural persons (residents or non-residents): full name and signature, date of birth, nationality, full address, profession and employer if applicable, engagement in public office (if any), type, number, date and issuing entity of the identification document (anyone which, under Portuguese law, serves such purposes);

  (ii) In case of legal persons: corporate denomination, scope, address of the registered office, legal person identification number, identity of the persons holding 25% or more of the capital or of the voting rights of the legal person at stake and identity of the persons elected for office in the management bodies of the legal person at stake.

  The requisites mentioned in (ii) above are also applicable, mutatis mutandis, for other situations, i.e., autonomous estates or entities deprived of legal personality.

  Where one wishes to open a bank account in Portugal in which the person representing the credit institution is not in direct contact with the prospective account holder or its representative, the exact same requirements are to be complied with. Without prejudice to the foregoing, the documents provided for above may only be considered as sufficing for compliance purposes if delivered in the form of certified copy or by way of a written statement by a credit institution with
which the prospective account holder has already opened an account in person where such credit institution attests to the veracity of information contained therein.

- **What are the restrictions, if any, on the investor's use of the account?**

  Without prejudice to a possible misuse of the accounts (potentially leading to criminal offenses), there are no legal restrictions on the use of the account, however, certain reporting, whistle-blowing and KYC obligations impending on credit institutions pertaining notably to EU anti-money laundering regulations (since transposed to internal law) may apply.

- **What is the type of financial system in the country?**

  The Bank of Portugal supervises the Portuguese Financial System. As with other EU Countries that have been integrated into the European System of Central Banks (ESCB), the Bank of Portugal's powers and responsibilities have been substantially reduced and no longer include powers such as the definition and implementation of the country’s monetary and exchange rate policy, the management of official currency reserves, the promotion of the efficiency of payment systems, and the issuing of legal tender bank notes, which are now controlled by the ESCB, to which the Bank of Portugal belongs.

  However, the Bank of Portugal kept some important legal functions, particularly the powers of supervision of the solvency and the professional behaviour of credit institutions the registered office of which are located in Portugal and therefore supervised by the former.

  The Portuguese legal framework of the financial system has been influenced by applicable EU legislation. Dating from Decree-Law no. 298/92, December 31, Portugal has begun to adopt the EU’s main principles of banking co-ordination.

  According to such EU principles, credit institutions of other EU Member States benefit from the “European Passport” and are allowed to perform banking activities in Portugal under the “freedom to provide services” and “right of establishment” principles, which allow for their presence in the Portuguese market, provided only that such companies are authorized in their home-country and perform an activity listed in the appendix of EU Directive no. 2006/48/CE, of the European Parliament and Council, June 14. The EU principles apply only to EU national entities. Non-EU entities are subject to an administrative authorization procedure in order to be able to act in the Portuguese market.

- **How is the banking system structured?**
The Portuguese banking system is mainly dominated by Portuguese universal banks. The largest banks operating in Portugal are Caixa Geral de Depósitos (state-owned), Banco Comercial Português, Banco Espírito Santo, Santander Totta, Banco BPI, Barclays Bank, Montepio, Banif and Caixa Agrícola.

- Is there a stock market?

The Lisbon stock exchange is the official quotation market and it is managed by Euronext Lisbon – Sociedade Gestora de Mercados Regulamentados, S.A.

- Can the investor receive bank loans?

Yes.

V. EXCHANGE CONTROLS
A. Business Transactions with Nationals, Residents or Non-Residents

- How are nationals, residents and non-residents defined?

For exchange control purposes, the definition as national, resident and non-resident is not relevant as all of the above are provided with equal treatment.

- Are there restrictions on conducting business with nationals, residents or non-residents?

Under Portuguese law there are no restrictions based on criteria such as nationals, residents and non-residents therefore the same set of rules will apply irrespective of such categorisation.

- Are there reporting requirements?

Foreign investment operations do not need to be registered with, or authorised by, the Portuguese central or local authorities. Except in international embargo circumstances, there are no legal restrictions on international capital movements and foreign exchange transactions, nevertheless, as from July, 2013, foreign investments made directly in Portugal in an amount equal to or exceeding EUR 10,000 must be reported to the Bank of Portugal within fifteen business days of the following month after the completion of the transaction or operation by either the Portuguese resident interested parties or by the intervening Portuguese bank, in accordance with the relevant Portuguese Central Bank instructions.
Can the investor receive loans from nationals, residents or non-residents?
Yes. There is no differentiation between nationals, residents or non-residents.

B. Investment Controls

- Are there restrictions on direct investment in the country?
  Under general Portuguese law, direct investment is not restricted. Notwithstanding, there are regulated sectors, for instance, telecoms, postal services, energy, water and waste management, railways, commercial aviation and financial services in which administrative authorisation from the competent regulator is mandatory and certain specific requirements may apply. There are also exceptional embargo situations, which will always have to be temporary. These may only apply to persons or entities residing in non-EU states. Additionally, restrictions may be imposed under the anti-money laundering laws and regulations.

- Are there restrictions on indirect investments in the country?
  Please refer to the answer above.

- Must the investor make declarations regarding the nature of his/her investment?
  The investor does not have to make any declaration as to the nature of his/her investment provided the investment is valid under Portuguese law (in particular, but not limited to, it is not a sector that has been not granted to a private party under a concession agreement or it is not in a regulated sector).

C. Money Transfer

- Is there free determination of exchange rates?
  The authorised entities may freely negotiate with their clients or amongst themselves the applicable exchange rates and the fees to be charged on such transactions.

- Are there restrictions on the transfer of money into or out of the country?
  No. For such purposes, we have assumed the expression “transfer of money” as not referring to hard cash since such situations are expressly contemplated below and that such transfer does not equate to the situation provided for under the anti-money laundering diploma.

- Are there restrictions on the remittance of profits abroad?
No.

- **Are there reporting requirements?**

  The reporting requirements imposed by the Bank of Portugal must be performed by the entities which are authorised to carry out such exchange rate commerce activities in accordance with the terms and conditions set out in the regulations issued by the Bank of Portugal. The information thus gathered will serve statistical purposes only.

- **Can hard currency be taken out of the country?**

  Any natural person who, whilst entering or leaving Portuguese territory, from or to a territory of a non-EU Member State carrying hard currency in an amount equal to or above EUR 10,000 must declare such amount to the custom authorities, by filling out the relevant form.

### VI. IMPORT/EXPORT REGULATIONS

#### A. Customs Regulations

- **Is the country a member of the EEC, GATT, or party to a regional free trade agreement?**

  Portugal signed the Act of Accession to the EEC on June 12, 1985, and became a member on January 1, 1986. Furthermore, as a Member State of the EU, Portugal joined the WTO as a founding member on January 1, 1995, and the plurilateral Agreements on Trade in Civil Aircraft and on Government Procurement. The Community's free-trade agreements with individual members of EFTA, concluded in the early 1970s, remain in force for Iceland, Liechtenstein, Norway, and Switzerland. The European Economic Area (EEA) established in 1994 extends the internal market to Iceland, Liechtenstein, and Norway.

  As a Member State of the EU, Portugal is part of the following regional trade or preferential trade agreements:
(i) Stabilization and Association Agreements: Former Yugoslav Republic of Macedonia (FYROM) and Croatia;

(ii) Euro-Mediterranean Association Agreements: Israel, Morocco, the Palestinian Authority, Tunisia;

(iii) Cooperation Agreements (Euro-Med Association Agreements concluded, but not in effect, or under negotiation): Algeria, Egypt, Jordan, Lebanon, Syria. With regard to Euro-Mediterranean Association Agreements, in December, 2011, the European Council adopted negotiating directives for Deep and Comprehensive Free Trade Areas (DCFTAs) with Egypt, Jordan, Morocco and Tunisia, aimed at enhancing the current trade agreements with these countries;

(iv) Other Free-Trade Agreements: Denmark (Faroe Islands), Iceland, Liechtenstein, Mexico, Norway, South Africa, Switzerland. In addition, Portugal is also part of the following free trade agreements: Albania, Algeria, Bosnia and Herzegovina, CARIFORUM states, Chile, Croatia, Egypt, Faroe Islands, Former Yugoslav Republic of Macedonia (FYROM), Israel, Jordan, Lebanon, Mexico, Montenegro, Morocco, Palestinian Authority, Serbia, South Africa, South Korea and Tunisia;

(v) Partnership and Cooperation Agreement with Iraq;

(vi) Other Customs Unions: Andorra, San Marino, Turkey;

(vii) Association of Overseas Countries and Territories (OCT): Anguilla, Antarctica, Aruba, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, French Polynesia, French Southern and Antarctic Territories, Greenland, Mayotte, Montserrat, Netherlands Antilles, New Caledonia, Pitcairn, Saint Helena, Ascension Island, Tristan da Cunha; South Georgia and the South Sandwich Islands, St. Pierre and Miquelon, Turks and Caicos Islands, Wallis and Fortuna Islands;

(viii) EU-African, Caribbean and Pacific (ACP) Partnership: Angola, Antigua and Barbuda, Bahamas, Barbados, Belize, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Cook Islands, Democratic Republic of Congo, Ivory Coast, Djibouti, Dominica, Dominican Republic, Equatorial Guinea, Eritrea, Ethiopia, Federated States of Micronesia, Fiji, Gabon, Gambia, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Jamaica, Kenya, Kiribati, Lesotho,
Liberia, Madagascar, Malawi, Mali, Marshall Islands, Mauritania, Mauritius, Mozambique, Namibia, Nauru, Niger, Nigeria, Niue Islands, Palau, Papua New Guinea, Rwanda, St. Christopher and Nevis, St. Lucia, St. Vincent and the Grenadines, Samoa, São Tome and Príncipe, Senegal, Seychelles, Sierra Leone, Solomon Islands, Somalia, South Africa, Sudan, Suriname, Swaziland, Tanzania, Togo, Tonga, Trinidad and Tobago, Tuvalu, Uganda, Vanuatu, Zambia and Zimbabwe;

(ix) Autonomous Trade Measures for the Western Balkans: Albania, Bosnia and Herzegovina, and Kosovo;

(x) Generalized System of Preferences (GSP) only: Afghanistan, Argentina, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, Bhutan, Bolivia, Brazil, Brunei Darussalam, Cambodia, Chile, People’s Republic of China, Colombia, Costa Rica, Cuba, East Timor, Ecuador, El Salvador, Georgia, Guatemala, Honduras, India, Indonesia, Iran, Iraq, Kazakhstan, Kyrgyzstan, Kuwait, Lao People’s Dem. Rep., Libyan Arab Jamahiriya, Malaysia, Maldives, Moldova, Mongolia, Myanmar, Nepal, Nicaragua, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saudi Arabia, Sri Lanka, Tajikistan, Thailand, Turkmenistan, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Venezuela, Vietnam, Yemen; American Samoa, Bermuda, Bouvet Island, Cocos Islands, Cook Islands, Gibraltar, Guam, Heard and McDonald Islands, Macao, Norfolk Island, Northern Mariana Islands, United States Minor Outlying Islands, Tokelau Islands and Virgin Islands (USA).

- **How are goods cleared through customs?**

  The Portuguese customs authority applies the Community Customs Code (CC), which has been in force since January 1, 1994 – EC Regulation no. 2913/92, as amended, and implemented by EC Regulation no. 2454/93, as amended.

  The CC applies uniformly throughout the customs territory of the EU, including Portugal, to imports and exports of goods. According to the CC, goods brought into the customs territory can be placed under various customs regimes. A customs declaration is required except for goods to be placed into a free zone or free warehouses. The customs declaration must, under normal procedures, be made in writing or through a data processing technique and consist of the Single Administrative Document, accompanied by pertinent/required documents (e.g., invoices, certificates of origin,
health certificates, certificates of conformity and authenticity). Automatic import licences, required for statistical purposes for certain, mainly agricultural products, must be submitted with the import declaration.

The CC and its implementing provisions have undergone several revisions since their adoption in 1992 and 1993 respectively, mainly to address security concerns, and to take into account the accession of new European Union Member States.

EC Regulation no. 648/2005 introduced a number of measures aimed at tightening security for goods entering or leaving the Community. As a result, in 2007 a common risk management framework was put in place; in 2008, the provisions for the Authorised Economic Operators (AEO) were implemented; since 1 July, 2009, traders have to provide customs authorities with electronic advance information on imports and exports. From 2011 carriers must also lodge an electronic Entry Summary Declaration (ENS) with the “customs office of first entry” into the EU.

Portugal, as an EU Member State, may grant authorized economic operator status to interested persons involved in activities covered by customs legislation. The benefit of such economic operator programmes depend on the type of certificate granted to the economic operator and may include fewer customs controls, priority treatment during customs controls and reduced data requirements when filing an ENS. However, participation in EU authorized economic operator programmes is not open to persons established outside the EU, unless the economic operator is established in a country that has concluded a mutual recognition agreement with the EU. Applications for authorized economic operator status must be submitted to the Member State with “the best knowledge of the applicant's customs related activities”. Authorized status granted by one Member State must be recognized by the customs authorities of all other Member States.

In 2005 the European Union via the European Commission proposed the replacement of the 1992 CC with a Modernized Customs Code (MCC). The MCC Regulation entered into force on 24 June 2008. However, the MCC will only apply once its implementing provisions have been adopted; these were scheduled to enter into force on 24 June 2009 at the earliest for implementation by 24 June 2013 at the latest. The MCC provides for the computerization of all customs formalities, streamlines and simplifies customs procedures, aims to ensure the balance between “supply chain security” and trade facilitation and the harmonized application of customs controls by Member States based on a common risk management framework and an electronic system for its
implementation, promotes the concept of “centralized clearance”, and provides for the introduction of the single-window and one stop-shop concepts. However, on 20 February 2012 the European Commission adopted a proposal for a recast of the MCC (Regulation of the European Parliament and of the Council laying down the Union Customs Code (COM (2012) 64)), having regard (i) that the implementation of a major part of the processes to be introduced depends on the definition and the development by the European Commission, the national customs administrations, and the economic operators of a wide range of electronic systems which requires a complex set up of actions between the Member States, the trade community and the European Commission, notably important investments in new EU wide IT systems and supporting activities as well as an unprecedented effort from the business community to operate according to new business models; (ii) the necessity to align the MCC with the new provisions of the Lisbon Treaty; and (iii) the need to adjust some provisions of the MCC which are either no longer in line with changes introduced since 2008 to current customs legislation or have proved difficult to implement through sound measures and workable business processes. In practice, the application of the provisions of the EC Regulation no. 450/2008 which depends on the use of electronic data-processing techniques and electronic systems may be suspended for the periods pending the availability of such systems. However, in accordance with the European Commission, such transitional periods and measures should not go beyond 31 December 2020.

Under the current CC (and the MCC), all imports need to be covered by an electronic customs declaration under the appropriate customs regime and all accompanying/supporting documents have to be submitted electronically. Goods are released as soon as the customs declaration has been verified or accepted without verification. Any decision taken by the customs authorities may be appealed. Appeals are first taken to the customs authorities or a judicial authority or any other body designated for that purpose, and if necessary, subsequently, to a higher independent body, which may be a judicial authority or an equivalent specialized body.

- **Are there applicable tariffs? Does the Customs Department value the goods?**

Yes. The EU tariff nomenclature, known as the Combined Nomenclature, is applicable in Portugal. This common tariff nomenclature contains 9950 lines at the eight-digit level. In accordance with the most recent available data, around 11% of tariff lines are non-\textit{ad valorem}. The average of \textit{ad valorem} equivalents (“AVEs”) of non-\textit{ad valorem} tariff rates is 24.7%, compared with
4.6% for *ad valorem* duties. Apart from agricultural products, non-*ad valorem* tariff rates apply on 34 tariff lines, including mostly glass and watches, watch and clock movements, and watch cases.

Portugal, as an EU Member State, applies several non-*ad valorem* type duties, mostly on agricultural products. Furthermore, Portugal uses seasonal duties and duties that are reduced if a product’s declared price is above a certain level (entry price system). Entry prices apply on 28 tariff lines at the 8-digit level, including tomatoes, cucumbers, courgettes, citrus fruits, grapes, apricots, and plums. Portugal uses the “Meursing Table” to determine the customs tariffs for processed agricultural products based on what they are made of.

**B. Exports**

- **Are there restrictions on exports? Are export licenses required?**

  Export restrictions are allowed on grounds of public morality, the protection of health and life of humans, animals and plants, and national cultural treasures. These restrictions are under the competence of the Portuguese State.

  At the European Union level, export prohibitions can be adopted by the EU and its Member States as part of the Common Foreign and Security Policy (CFSP) and to implement UN Security Council Resolutions.

  The export of arms may also be subject to prohibition as part of EU sanctions against certain countries. In particular, arms embargoes are in place against Afghanistan, Belarus, Burma (Myanmar), China, Côte d’Ivoire, Congo, Eritrea, Guinea (Conakry), Iran, Iraq, Lebanon, Liberia, Libya, North Korea, Sierra Leone, Somalia, South Sudan, Sudan, Syria, Uzbekistan and Zimbabwe.

  The export of dangerous chemicals is subject to controls established in EC Regulation no. 689/2008, as last amended by Commission Regulation (EU) no. 71/2012 of 27 January.

  An export authorization or licence is required for the export of cultural goods and certain products under the common agricultural policy and for the control of exports of dual-use items and technology. The list of products subject to the special control under the dual-use regime is set out in EC Regulation no. 428/2009, as last amended by Regulation (EU) no. 388/2012 of the European Parliament and of the Council of 19 April 2012. The export of software or technology by electronic media, fax or telephone (intangible transfers) may also be subject to authorization under the dual-use regime.
There are four types of export authorisations on dual-use goods: EU General Export Authorisations, National General Export Authorisations, Global Authorisations and Individual Licenses. Dual-use items may be traded freely within the EU except for those listed in Annex IV to EC Regulation no. 428/2009, which are subject to prior authorisation. In this regard, it is important to note that on 30 June 2011 the European Commission adopted a Green Paper on the EU dual-use export control system.

Applications for export licences are submitted, as a general rule, to the Portuguese Customs Authority.

- **Are there applicable export duties?**
  Portugal, as a member of the European Union, does not apply taxes, charges or levies on exports.

**C. Foreign Trade Regulations**

- **Are there foreign trade regulations on the import or export of goods involved in the business?**
  Please refer to section B of the current chapter.

**D. Imports**

- **Are import licenses required?**
  Import licences are required for products subject to quantitative restrictions, safeguard measures or for import monitoring and surveillance. The system cannot be abolished without legislative approval. European Union regulations generally contain provisions relating to the duration and expiry of the licensing regime.

  The import licences are not subject to fees and are not transferable; they constitute an authorization and have a fixed period of validity. There is no penalty for non-utilization of an import licence or portion of it. However, when a security is required for a licence covering agricultural products, the security is forfeited in whole or in part if imports do not take place or are only partly carried out.
Import surveillance applies to certain textiles, steel products, and to agricultural products including cereals, rice, sugar, olive oil and table olives, flax and hemp, milk and milk products, beef and veal, fruit and vegetables, and processed fruits and vegetables.

Import licences are issued by the competent Portuguese authorities at the request of operators. In addition, imports of agricultural products subject to tariff quotas administered by methods other than “first-come, first served” are subject to licensing. The licensing requirements are set out in Regulation no. 1301/2006 and individual regulations establishing the modalities for the quotas. Licences for imports under tariff quotas are granted in a non-discriminatory way on the basis of the “simultaneous examination method”. In general, importers must lodge a security to apply for an import licence. The amount of the security depends on the product and is forfeited if the product in question is not imported during the period of validity of the licence.

Imports of timber and timber products from countries that have entered into the Forest Law Enforcement Governance and Trade (FLEGT) “Voluntary Partnership Agreement” (VPA) with the EU are subject to licensing. As part of these agreements, timber-producing countries voluntarily agree to set up a national scheme to verify the legality of their shipments of timber and timber products to the EU and, consequently, to Portugal, as a Member State. FLEGT VPAs have been ratified with Ghana (September 2009) and the Republic of Congo and Cameroon (February 2011); the VPA with the Central African Republic was signed on November, 2011.

Quantitative restrictions and controls on imports are in place to implement sanctions imposed by United Nations resolutions and provisions under international treaties or conventions.

- **Are there applicable import duties?**
  
  Yes. Please refer to the answer to the question “Are there applicable tariffs? Does the Customs Department value the goods?” above.

- **Are there applicable import quotas?**
  
  Portugal, as an EU Member State, does not maintain quantitative restrictions on imports from WTO Members to protect domestic producers. However, in addition to specific agricultural products, the only non-agricultural products that are subject to quantitative restrictions by Portugal, as an EU Member State, have been certain textiles from Belarus and the Democratic People’s Republic of Korea. According to the European Commission, its bilateral textile agreements with Russia and Serbia do not foresee any quantitative restrictions on imports or exports.
Certain steel products originating in Kazakhstan are also subject to quantitative restrictions. In this regard, the EU ended the surveillance scheme on eight categories of textile products from China on 31 December 2008 and on imports of certain textile and clothing products from Uzbekistan in May, 2010. The surveillance scheme on imports of certain steel products originating in Russia also ended in 2012.

- Are there applicable import barriers?

Portugal implemented United Nations Security Council Resolution no. 1343, setting out measures to be imposed against Liberia, which includes the prohibition of direct or indirect imports of all rough diamonds, as well as round logs and timber products into Portugal. In addition, there is a ban on the importation of rough diamonds from Côte d'Ivoire.

Portugal also applies the European Union regulations to trade in wild fauna and flora to implement the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), including prohibitions and licensing requirements – EC Regulation no. 2087/2001.

Other measures for species protection include a prohibition on imports of whales and other cetacean products for commercial purposes (EC Regulation no. 348/81), a prohibition on skins of sea pups, except those harvested by Inuit using traditional techniques (EC Directive no. 29/83, as amended), a ban on imports of Atlantic blue fin tuna (EC Regulation no. 2092/2000) and swordfish (EC Regulation no. 2093/2000) from countries that the Commission for the Conservation of Antarctic Marine Living Resources has identified as fishing in a manner prejudicial to conservation of this species.

Portugal also complies with EC Regulation no. 259/1993, as last amended by Commission Regulation (EC) no. 2557/2001, December 28, that implements the Basel Convention to control the export, import and disposal of hazardous wastes and controls, by prohibitions and licensing requirements applicable to the movement of radioactive waste, and with EC Regulation no. 1005/2037, as amended by Commission Regulation (EU) no. 744/2010, August 18, on substances that deplete the ozone layer.

Furthermore, Portugal, as an EU member state, has signed two treaties that may impose restrictive trade measures which are the World Health Convention on Tobacco Control and the Convention on the Conservation of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

In addition, on October 2010, the EU adopted legislation (Regulation (EU) no. 995/2010 of the European Parliament and of the Council of 20 October 2010) that prohibits placing illegally
harvested timber and timber products containing such timber on the EU market, such legislation to be applied from 3 March 2013. In accordance with Regulation no. 995/2010, “operators” who place domestically produced or imported timber and timber products on the EU market for the first time must exercise “due diligence” to minimize the risk that such products contain timber harvested in contravention of the applicable legislation in the country of harvest and persons trading timber and timber products within the EU, other than those placing such products for the first time on the EU market, must keep records of their suppliers and customers.

E. Manufacturing Requirements

- Must the product contain ingredients or components, which are found or produced only in the country?

As a general rule no. If, however, a product is qualified as part of a Protected Designation of Origin (PDO) or Protected Geographical Indication (PGI) of Portugal – usually applicable to wines, cheeses, butters, and other agricultural products – the product shall contain ingredients or components which are found or produced only in Portugal. This system ensures that only products genuinely originating in a specific Portuguese region are allowed in commerce as such.

The relevant legal rules on the protection of geographical indications and designations of origin for agricultural products and foodstuffs and respective implementing legislation are provided in E.C Regulation no. 510/2006.

- Will the importation of certain component parts be permitted only if they are to be ultimately incorporated in a final product?

As a general rule no. Restrictions may apply, however, as provided in the preceding answer to the question “Are there applicable import barriers?”

F. Product Labelling

- Are there applicable labelling or packaging requirements (e.g. multi-lingual notices, safety warnings, listing of ingredients, etc.)?

Portugal has mandatory packaging and labelling requirements for, inter alia, tobacco products, alcoholic beverages, cosmetic products, household appliances, food, food ingredients from genetically modified organisms and medicinal products.
As a general rule, labelling must be provided in the Portuguese language. Law no. 24/96, July 31, establishes in articles 7(3) and 8(1), that all information regarding goods and services marketed in the national territory shall be set out in plain intelligible language for consumers and that the information to the consumer shall be rendered in Portuguese. Equally, Decree-Law no. 238/86, August 19, regarding the obligation by economic agents to use the Portuguese language when providing goods or services to consumers, determines that all references, namely, on the nature, features and guarantees of goods and services offered to the public in the national market must be provided in Portuguese, particularly in labelling and advertising.

Furthermore, for a product to be placed in the Portuguese market, it must comply with the relevant regulations, when applicable. Product regulations are applicable in Portugal, *inter alia*, in the following sectors: low voltage equipment, safety of toys, construction products, personal protective equipment, active medical implant devices, appliances burning gaseous fuels, medical devices, equipment for use in explosive atmospheres, lifts, energy efficiency requirements for household electric refrigerators, freezers and combinations thereof, marine equipment, pressure equipment and radio equipment and telecommunications terminal equipment.

### VII. STRUCTURES FOR DOING BUSINESS

#### A. Governmental Participation

- **Will the government seek to participate in the ownership or operation of the entity (e.g. depending on the type of activity involved)?**

After the Revolution of April 25, 1974, the Portuguese state suddenly became the owner of more than a thousand companies. This included a few large industrial enterprises in strategic sectors of Portuguese economy.

However, it is safe to say that, very recently, a decrease of the State’s stakes in multiple strategic national companies has been taking place.

Firstly, and even though golden shares are still a vivid memory in the by-laws of some Portuguese companies operating in certain strategic sectors, such as telecommunications, energy and public services, the Portuguese State has recently relinquished its stakes in important national companies. Such was the case of the several privatisations announced during the year, including the
sale of the Portuguese State’s 21.35% stake in EDP – Energias de Portugal, the Portuguese electricity company, to China Three Gorges in a transaction worth approximately EUR 2.7 billion that was announced in the last days of 2011 and completed in 2012. There was also the case of the State’s 40% stake in energy grid company REN – Redes Energéticas Nacionais, acquired by Chinese State Grid (25%) and Oman Oil Company (15%), for a total price of approximately EUR 592.21 million.

In the last days of 2012 it was also announced that the privatisation of ANA, the Portuguese airports management company, was awarded to Vinci, the French group that agreed to pay an approximate amount of EUR 3.08 billion for 95% of this company’s shares.

Another recent example of the Portuguese State surrendering its stakes in Portuguese companies may be found in the banking sector. Although the Portuguese Government nationalized the private Portuguese bank “Banco Português de Negócios” (BPN) in November, 2008, after reports of a malpractice related debt of EUR 1.8 billion and several irregularities, guaranteeing all deposits in BPN and handing over the bank’s management to Caixa Geral de Depósitos under Bank of Portugal’s supervision, this ailing bank was in the meanwhile (first quarter of 2012) reprivatized and sold to the Angolan bank “Banco BIC”.

The State’s participation in the share capital of companies is mostly regulated by Decree-Law no. 558/99, December 17, which distinguishes public companies from public entities in the form of companies.

On the one hand, public companies are ones in which the State is said to have dominant influence by means of having (i) the majority of the share capital, (ii) the majority of the voting rights or (iii) the right to designate or to dismiss the majority of the board members or the majority of the company’s supervisory members. These are companies that do not envisage profitability but instead strive to contribute to the equilibrium of the public sector as a whole and to provide for certain services crucial to the general welfare of the population.

On the other hand, public entities in the form of companies (“Entidades Públicas Empresariais”) are also dominated by the State through the supervision of the Ministry of Finance and Public Administration, but, whilst not exclusively, envisage profit. These companies are generally created by a decree-law – which establishes and approves the by-laws – and, therefore, are not governed by general corporation law. They constitute real public law entities – mainly aiming at
rendering public services – and their share capital is exclusively owned by the State or by other public entities.

- **If so, to what extent?**
  Please see answer to the question above.

- **What is the investor's potential liability to partners, investors or others?**
  Please find below sections C and D of current chapter related to different types of companies and their specific characteristics.

- **Are there restrictions on capitalization?**
  Concerning the minimum requirements on share capital on different types of companies, please refer to section C of the current chapter.

**B. Joint Ventures**

- **Are joint ventures permitted?**
  Portuguese law allows for the creation of joint-venture companies using any of the different types of companies legally permitted (please see below the chapter related to different types of companies and their specific characteristics). Of course, parties may also contractually agree to share interests in a business venture without creating an autonomous legal entity.

  - **If so, what is the registration or incorporation procedure?**
    Please refer to section C below.

  - **How long do these procedures take?**
    The setting up of a joint venture through the incorporation of a company takes the same time as the time needed to register or incorporate a new company. For more details please refer to section C below.

  - **What costs and fees are involved?**
    There are no special costs and fees related to joint ventures. For companies please refer to section C below.

  - **Must a national of the country or a related state, (e.g., the EEC) be a participant, manager or director?**
Portuguese nationality is not required for any participant, manager or director. However, any foreign citizen wishing to be a manager or a director of a Portuguese company, even if not remunerated, must obtain a Portuguese tax identification number.

- **What is the investor's potential liability?**

  The investor’s liability will depend upon how the joint venture was structured and upon the kind of investment made.

  If the joint venture gives rise to a new legal entity and the investor acquires a stake in said company, the potential liability is determined in accordance with company law: Please refer to sections C and D below.

  If the joint venture originated from a contractual agreement to share interests in a business venture without creating an autonomous legal entity, however, any investor financing the venture through debt will bear only the risk of a creditor. If the investor is one of the parties in the business venture, liability will be determined according to the contractually determined exposure.

- **Are there restrictions on capitalization?**

  Concerning the minimum requirements of share capital for different types of companies, please refer to section C below.

- **What are the investor's tax consequences?**

  The answer depends, once again, upon the adopted structure for the joint venture. If it involves the creation of a new legal entity, then the new company will be subject to corporate income tax. The investor will, depending on whether he is a legal or a natural person, be subject to corporate income tax or personal income tax, respectively, on income related to its stake (such as dividends, capital gains derived from the sale of share capital, etc.). Please refer to chapters XII and XIII.

**C. Limited Liability Companies**

- **Are limited liability companies permitted?**

  Yes. There are two different types of limited liability companies in Portugal: (i) the limited liability company by shares (SA) and (ii) the limited liability company by quotas (LDA). The main characteristics of each one are described herewith.
Limited liability company by shares (SA)

A limited liability company by shares (SA) is a legal person whose capital is divided into shares and that the shareholders’ liability for the company’s debts is limited to the amount of their investment (represented by the number of shares subscribed).

As a general rule, an SA must be incorporated by a minimum of five founding shareholders or one corporate founding shareholder. However, only two founding shareholders are required where either the State or a public company owns more than 50% of its share capital.

A minimum share capital of EUR 50,000 will be required for the incorporation of an SA. The capital of an SA must be composed of contributions in cash or in kind (non pecuniary assets). SAs may not accept labour as a form capital contribution. However, in an SA, the share capital does not have to be fully paid up at the time of subscription, provided that a minimum of 30% of each share’s nominal value is paid up at that time. Within five years of incorporation the remaining share capital must be fully paid up.

In an SA, the capital is divided into shares, which have the minimum nominal value of EUR 0.01. Unless otherwise provided by law or in the company’s by-laws, shares can be nominative, bearer shares or dematerialised. Shares can either be represented by share certificates or kept in book-entry form. Shares in an SA are freely transferable, except where its by-laws place restrictions on their transferability.

Limited liability company by quotas (LDA)

A limited liability company by quotas (LDA) is a legal person whose capital is divided into equity participations (the “quotas”) that cannot be represented by transferable certificates nor kept in book-entry form. Quotas are subject to registration before the Commercial Registry Office.

The LDA has traditionally been the investment vehicle used in Portugal for small businesses, usually of a family nature, but it may also be used by corporate investors if their business in Portugal does not justify the recourse to an SA. Quota-holders are jointly and severally liable for the paying up of the company’s entire share capital, but their liability extends no further than that.

Shareholders may freely stipulate the amount of an LDA share capital, the minimum nominal value of each quota being equal to EUR 1.

Shareholders may defer the payment of cash contributions of the share capital provided that they have contributed with the minimum mandatory nominal value of quotas (EUR 1) on
incorporation or up until the end of the first financial year. However, the payment of such deferred contributions shall be effected on defined dates or whenever determined events or facts occur.

Thus, on incorporation, shareholders shall declare that they have delivered the value of their cash contributions to the company’s account or that they undertake to do so until the end of the first financial year. In the latter case, the shareholders shall declare, at the first annual shareholders’ meeting following the end of the financial year – generally, the annual shareholders’ meeting where the financials are approved – that their contribution in the company’s account has been duly made.

An LDA must be incorporated by a minimum of two founding quota-holders. However, it is also possible to incorporate an LDA with just one quota-holder (Sociedade Unipessoal por Quotas/SUQ).

- **How are they registered or incorporated?**

There are three possible procedures to incorporate and register a Portuguese company: (i) the conventional method; (ii) the on-the-spot firm (Empresa na Hora); and (iii) the online company incorporation (Empresa on-line).

**The conventional method**

Anyone who wishes to incorporate company must apply for the approval of the company’s proposed name with the National Registry for Corporate Entities (Registo Nacional de Pessoas Colectivas/RNPC). With the approval of the name RNPC attributes a tax identification number to the company. The name approval is valid for a period of 3 months and consequently the company shall be incorporated during such period. The name approved entitles the subscriber to use such corporate name exclusively.

The company’s incorporation does not require the execution of a public deed (unless real estate assets are transferred to the company by way of capital contributions). As such, the incorporation of the company is formalized through the signature of a private written document (documento particular) by the shareholders where the signatures of those are certified by a notary, by a lawyer or by any other entity authorised for such effect. It means that the physical presence of the shareholders or their representatives (duly empowered by means of a power of attorney) is required.

If the company’s share capital consists of contributions in kind, the relevant assets should be subject to prior evaluation by an external auditor, which must prepare a report.
Once the private written document is executed, the registration of the incorporation of the company must be requested before the Commercial Registry Office. Upon this registration, the company becomes a separate legal entity capable of having its own assets, rights and obligations.

The Commercial Registry Office is open to the public. Hence, the public will have access to all its records and can obtain certificates disclosing everything that has been registered under a given company’s name.

It is the Commercial Registry’s duty to have the company’s incorporation published on the Ministry of Justice website http://publicacoes.mj.pt/.

Within ninety days of the granting of a tax identification number by the RNPC or fifteen days counting from the request of the company’s registration of incorporation, the company must register its business activities before the tax authorities. The auditor who shall henceforth be responsible for the company’s accounts must sign this application.

The registration of the company and the inscription of the members of the corporate bodies before the Social Security operate ex officio by exchange of information with the Commercial Registry Office and the tax authorities, based on the registration of the company’s incorporation and on the tax statement submitted by the company for the registration of its business activities. Social Security will than request additional information/documentation from the company in respect to the members of the corporate bodies in order to proceed with their inclusion or exclusion from the Social Security regime.

*Empresa na Hora and Empresa on-line*

In the *Empresa na Hora* procedure (http://www.empresanahora.pt/ENH/sections/EN_homepage) the company is immediately incorporated and registered in one visit by the investor to a single registry office.

In the procedure *Empresa on-line* the company is incorporated and registered by accessing the official Portuguese business website https://www.portaldaempresa.pt/cve/Login.aspx?page=1 using a digital certification number.

If the investor decides to incorporate the company through any of these two procedures, he shall choose a pre-approved company name which is a fantasy name created and reserved by the Portuguese authorities for the purpose of incorporating a company. The pre-approved company name can also be associated with a preregistered trademark. The assignment of the pre-approved
company name is made on the moment of the company’s incorporation. A reference to the company’s object can be added by the company founder to the pre-approved company name.

If the investor decides not to use one of the pre-approved company names, it is possible in the procedure Empresa on-line (i) to request the automatic approval of a company name composed from the names of the company founders (individuals) or (ii) to request the approval of a company name. In both Empresa on-line and Empresa na Hora it is also possible to present a certificate of approval of the company’s name previously obtained from RNPC. Before requesting the company name, the investor may verify the availability of the desired name at https://www.portaldaempresa.pt/CVE/Services/Online/Pedidos.aspx?service=PNS.

In what concerns the by-laws, the investor has to choose one of the pre-approved by-laws available (in Empresa na Hora) or may choose to adopt one of the pre-approved by-laws or to submit the by-laws drawn-up and signed by him with the signatures certified by a lawyer, a solicitor or a notary (on Empresa on-line).

In these two procedures the tax declaration of start of activity to the tax authorities can be immediately submitted. For such purpose the company founders shall indicate the accountant of the company (Técnico Oficial de Contas/TOC) or choose one from an official list available. In case the tax declaration of start of activity is not immediately submitted, it should be submitted by the TOC (by internet or in paper) to the tax authorities within 15 days after the incorporation, otherwise a penalty is applicable.

Once the company is registered:

(i) A permanent on-line constantly updated certificate of the company is issued and remains available for consultation during a 1 year period at https://www.portaldaempresa.pt/CVE/Services/Online/Pedidos.aspx?service=CCP&lang=PT

(ii) The registrar communicates the incorporation to the competent authorities, in particular, to the tax authorities and to the social security;

(iii) An electronic taxpayer card constantly updated is issued and is available for consultation at https://www.portaldaempresa.pt/CVE/Services/Online/Pedidos.aspx?service=CC&lang=PT. Subsequently the material card is sent to the company’s head office;
(iv) An evidence of the trademark acquisition is issued in case the investor has requested a pre-approved company name with an associated pre-registered trademark.

- **How long do these procedures take?**
  It depends on the incorporation procedure adopted. From 1 day with Empresa na Hora, 2 days with Empresa on-line and up to 30 days with the conventional method.

- **What costs and fees are involved?**
  Depends on the incorporation procedure adopted.
  
  *Empresa na Hora*: EUR 360.
  
  *Empresa on-line*: (i) EUR 360 if not incorporated with pre-approved by-laws; or (ii) EUR 220 if incorporated pre-approved by-laws. Plus the cost of the certification of the investor(s) signature(s).

  In addition, the incorporation with a preregistered trademark with a single class of products or services is EUR 200 with Empresa na Hora and EUR 100 with Empresa on-line. For each additional class: EUR 44.

  In the conventional method the fixed costs involved in the incorporation and registration of a company with contributions paid in cash are approximately EUR 550.

- **Must a national of the country or a related state be a participant, manager or director?**
  Directors and managers are not required to have Portuguese nationality. However, any foreign citizen domiciled abroad, wishing to be a manager or a director of a Portuguese company, even if not remunerated, must obtain a Portuguese tax identification number. If the directors/managers to be appointed are non EU citizens, they should also appoint a tax representative (someone with Portuguese residence) for tax purposes.

- **Are there restrictions on capitalization?**
  The minimum share capital needed to incorporate an SA company is EUR 50,000 which will be divided into shares with a minimum nominal value of EUR 0.01.

  As referred above shareholders of an LDA may freely stipulate the amount of the company share capital, at the minimum of EUR 1 per quota.

- **What are the investor's tax consequences?**
Please refer to answer provided on chapters XII and XII.

D. Liability Companies, Unlimited

- What are the forms of liability companies?

There are three types of unlimited liability companies, which are (i) the general partnership (sociedade em nome colectivo), (ii) the simple commandite, or limited liability partnership (sociedade em comandita simples) and (iii) the stock commandite, or partnership limited by shares (sociedade em comandita por ações).

Actually these types of companies are very rare in Portugal, the most common being the limited liability companies above mentioned. They have proven to be less flexible and adjustable to modern business needs, although combinations of one of them and one limited liability company may prove useful for some purposes.

**The General Partnership (Sociedade em Nome Colectivo)**

The firm’s name must end with the phrase “e Companhia” or “& C.ia”, or another collective term, indicating the fact that the partners’ liability is unlimited. Contributions of labour or services are allowed. This type of company is frequently used by professional individuals who are associated in firms, such as lawyers, accountants and auditors, because the law so requires. The inter vivos transfer of a partner’s participation can only be effective with the express consent of the other partners. Unanimous approval is also required, inter alia, for the admission of a new partner.

**The Simple Commandite, or Limited Liability Partnership (Sociedade em Comandita Simples)**

The simple commandite is a hybrid partnership and corporation in which, at least, one of the partners must have unlimited liability (the full partner, or sócio comanditado), whereas the liability of the other partners (the dormant partners, or sócios comanditários) is limited to the amount of capital each of them has subscribed. The full partner may itself be a natural person or a limited liability company. Only the full partners can be directors of the company. The combination of these two features may transform this type of company into an instrument to exercise the control/management power within a company (see the German example of the Gmbh & Co). The company’s name must contain the words “em Comandita” or “& Comandita”.
The Stock Commandite, or Partnership Limited by Shares (Sociedade em Comandita por Acções)

Like the simple commandite, the stock commandite also has one or more full partners and one or more dormant partners, but the latter’s participation is represented by shares. The company’s name must contain the words “Sociedade em Comandita por Acções” or “Comandita por Acções”.

The remark made above, with respect to the fact that the full partner may be a limited company and has sole management powers, may render this type of company a useful instrument to consolidate power within a stock company.

In Portugal, the commandite – whether simple or by shares – is a particularly rare type of company, and as a result the relevant legal provisions have scarcely ever been the object of judicial or academic analysis.

- How are these companies registered or incorporated?
  Please refer to section C above.

- How long do these procedures take?
  Please refer to section C above.

- What costs and fees are involved?
  Please refer to section C above.

- Must a national of the country be a participant, manager or director?
  Please refer to section C above.

E. Partnerships, General or Limited

- Are partnerships recognized or permitted?
  Please refer to section D above.

F. Partnerships, Undisclosed

- Do undisclosed partnerships exist?
  No.

G. Sole Proprietorships
• Can the investor be a sole proprietor?

Yes. As mentioned above an SA can be incorporated by one corporate founding shareholder and an LDA by one quota-holder (either a natural or a legal person) in which case the LDA is a *Sociedade Unipessoal por Quotas* (SUQ), in order to make the sole proprietorship of the company known to the public.

An SUQ cannot be the sole proprietor of another SUQ, and a natural person cannot be proprietor of more than one SUQ.

• How is the sole proprietorship registered or established?

The incorporation procedure of an SA by one corporate shareholder or of an SUQ is the same referred above in section C of the current chapter.

The sole proprietorship of an SA or of an LDA may result from the concentration of all the shareholding in one proprietor. In the case of an SA, as a general rule, the sole proprietor has to communicate the acquisition of the shares to the company. In the case of an LDA, if the sole proprietor intends to maintain his sole proprietorship, he shall convert the company into an SUQ by means of a declaration expressing his will on such conversion. The conversion into an SUQ is subject to registration with the Commercial Registry Office.

• How long does this process take?

Please refer to section C above.

• What costs and fees are involved?

Please refer to section C above.

• What is the investor's potential liability?

The sole proprietor is liable for the paying up of the company’s entire share capital.

In case the company with a sole proprietor (SA or LDA) is declared insolvent, the sole proprietor shall be primarily and unlimitedly liable for the obligations assumed by the company after the concentration of quotas or shares, as long as it can be proved that, during that period, there has been a breach of the legal provisions on the allocation of the company’s assets to fulfill its own obligations.

Furthermore, any agreements between the sole quota-holder and the SUQ must be authorized in the company’s by-laws, executed in the legally prescribed written form and attached to the annual
accounts. Otherwise, such agreements will be declared null and void, and the sole quota-holder will be unlimitedly liable for them.

- **Are there restrictions on capitalization?**

The sole proprietor of an SUQ may freely stipulate the amount of the company’s share capital. In the case of an SA the minimum share capital is EUR 50,000.

**H. Subsidiaries/Branches/Representative Offices**

- **Can the investor establish a branch, subsidiary or representative office?**

A non-EU company wishing to conduct business in Portugal may do so through the establishment of a subsidiary in Portugal. The subsidiary will be an autonomous legal entity with a separate corporate personality and will have to assume the form of one of the above outlined types of company. A company having its registered office in the EU can operate in any EU country without having to establish any subsidiary for such purpose.

Any foreign company wishing to carry out business activities in Portugal for more than one year without opening a subsidiary is legally required to establish a Portuguese branch (*sucursal*) or representative office (*escritório de representação*) and to comply with the appropriate registration requirements and with national law. These companies are also encouraged to comply with the Guidelines for Multinational Enterprises - Corporate Social Responsibility (*Directrizes para as Empresas Multinacionais – Responsabilidade Social das Empresas*) available at [www.portugalglobal.pt](http://www.portugalglobal.pt).

The branch is a form of permanent representation within the country or abroad which has no legal personality and carries out, whether in whole or in part, the activity of the “parent” company. Given that branches are not autonomous legal entities nor do they have a separate corporate personality, the foreign company will always be liable for its actions and debts.

- **If so, how long does registration or incorporation take?**

Many of the requirements and procedures for opening a secondary establishment are the same as for starting up a business (please see below the chapter on types of companies).

It is now possible in Portugal – after the creation of the “Branch on the Spot” (*Sucursal na Hora*) by Decree-Law no. 73/2008, April 16 – to establish permanent representations by foreign entities in just one day. The website
http://www.portaldacempresa.pt/cve/services/balcaodoempreendedor/Licenca.aspx?CodCategoria=47&CodSubCategoria=1&CodActividade=1106&CodLicenca=655&IdUnico=0 provides information on this new system which reduces the amount of time and money spent.

The “Branch on the spot” service is currently only available in the most important Portuguese cities. For the rest of the country, the following conventional method is used:

(i) Register the branch name at the RNPC;

(ii) Register the branch and its representative with the Commercial Registry Office. In general, the following documents should be presented: the certificate of legal existence of the “parent company” or an updated commercial registry certificate, its by-laws, a resolution of the parent company on the opening of the branch and appointing its legal representative/manager (all documents must be translated into Portuguese and the translation certified with the apostille of the Hague);

(iii) Inform the tax authorities of the business’ starting date on the appropriate form, completed, signed and certified with an accountant's stamp; and

(iv) Register with the Social Security Services.

Please note that for certain types of “parent companies” such as Banking Institutions, the law, notably Decree-Law no. 298/92, December 31, as amended (RGICSF), requires a specific process for the establishment of subsidiaries, as well as more extensive documentation and regulatory requirements.

- **What costs and fees are involved?**

The costs for opening a branch or a representative office in Portugal, including the appointment of the respective representative, are approximately EUR 200. Regarding the subsidiaries, please refer to section C above.

- **What is the investor's potential liability?**

Regarding the liability framework in different types of companies, please see sections B, C and D of the current chapter above.

- **Must a national of the country be a participant, manager or director?**
Portuguese nationality is not required for any participant, manager or director. However, any foreign citizen wishing to be a manager or a director of a Portuguese company, even if not remunerated, must obtain a Portuguese tax identification number.

- **Are there restrictions on capitalization?**
  
  Please refer to section C above.

- **What are the investor's tax consequences?**

  Subsidiaries are considered independent Portuguese resident corporations for corporate income tax purposes. Therefore, the investor will only be subject to tax (corporate income tax, when the investor is a corporation or personal income tax, when the investor is an individual) on income related to its stake (such as dividends, capital gains derived from the sale of share capital, etc.). Profits attributable to branches and representative offices of non-resident investors, when considered as permanent establishments, are subject to withholding tax in Portugal (therefore, in principle, the investor himself shall not be subject to taxation in Portugal).

- **Are these tax consequences different from those of a local company?**

  Tax treatment for subsidiaries is very similar to the one given to a local company. Branches and representative offices of local companies are not subject to tax, as all their profits are attributed to the “parent company” for tax purposes.

I. **Trusts and other Fiduciary Entities**

- **Are trusts or other fiduciary entities recognized?**

  As a rule, Portuguese law does not recognize the incorporation of trusts as such. Despite being present at the fifteenth session of the Hague Conference on Private International Law held on October, 1984, Portugal has not yet signed the Hague Convention on Trusts.

  As an exception, the Portuguese Government created a specific regime of trusts (trust offshore) within the International Business Center of Madeira (“Madeira IBC”) through Decree-Law no. 352-A/88, October 3. However, this admission is made not without restrictions, namely it is stated that «(...) this law thus relates to the recognition of the institution of trusts only as far as it operates offshore, i.e., based on extraterritorial criteria, without any interference in the judicial
system, and it exclusively applies to corporate persons – trust companies - that shall be subject to the same statute.

In fact, although these trusts are recognized under Portuguese law, they shall be governed by a foreign valid law (namely in what concerns validity, interpretation, effects and management) and there shall be no contact with the Portuguese territory namely in what concerns the settlor, the beneficiary and the trusts’ assets.

- If so, how are each defined?

In accordance with Decree-Law no. 352-A/88, October 3, Madeira trusts have 3 key elements: (i) the settlor, that transfers the assets under control and administration of a 3rd party; (ii) the trustee that is such third party that administrates the assets; and (iii) the beneficiary which can be the settlor, the trustee or another third party or a specific scope.

The specific regime can be summed up by the following:

The settlor, a non-resident entity, incorporates the trust which shall not be composed of assets located in Portuguese territory, and indicates the applicable law.

On the incorporation of the trust, the trustee (duly authorized to operate within Madeira IBC) is automatically the holder of the assets.

The trustee has the power and duty to administrate and dispose of the assets allocated to the trust.

The trust is registered in the Commercial Registry Office.

Income generated by the trust shall be distributed to the beneficiaries.

- What are the legal consequences of a transfer of assets to a trust or fiduciary?

In accordance with Article 2 of Decree-Law no. 352-A/88, October 3, the main legal consequences of operating with a Madeira trust are: (i) the assets constitute a separate estate and do not constitute part of the trustee’s estate; (ii) the titles concerning the assets from the trust are registered on behalf of the trustee; and (iii) the trustee is granted the power and is subject to the obligation to administrate, manage and dispose of the assets in accordance with the trust incorporation document and the applicable rules of law.

- Can the investor be the grantor, trustee or beneficiary?

According to the specific regime of the trusts incorporated within Madeira IBC, the grantor (settlor) and the beneficiary must be non-resident entities or entities operating within the Madeira IBC.
The *trustee* must be a company per shares or a branch authorized to operate within the Madeira IBC, following particular restrictions provided in the referred decree-law, such as regarding specific minimum share capital and paying for a deposit to grant the fulfilment of the respective obligations.

**VIII. REQUIREMENTS FOR THE ESTABLISHMENT OF A BUSINESS**

**A. Alien Business Law**

- **Is the business subject to any alien business law? Are there registrations or reporting requirements?**

  No. In the Portuguese jurisdiction there are no rules which specifically restrict the business activities of aliens or non-Portuguese legal persons.

**B. Antitrust Laws**

- **Do the entity's operations comply with anti-trust laws?**

  A company active in the Portuguese jurisdiction must comply with national and EU competition law rules – Law no. 19/2012, May 8, which approves the New Portuguese Competition Act and Articles 101 and 102 of the Treaty on the Functioning of the European Union and respective implementing legislation.

  The Portuguese Competition Authority is the public body responsible for ensuring the enforcement of competition law rules in the national territory and has regulatory powers on competition over all sectors of economy, including the regulated sectors, the latter in coordination with the relevant sector regulators. The Competition Authority exercises its power of enforcement in three main substantive areas:

  (i) Abuse of a dominant position in the national market or in a substantial part of it with the object or effect of preventing, distorting or restricting competition;

  (ii) Anticompetitive agreements between companies, decisions by associations of companies and concerted practices between companies, whatever form they take, of which the object or effect is appreciably to prevent, distort or restrict competition in the whole or in part of the national market;
(iii) Concentrations between companies.

Anticompetitive conducts can be sanctioned, as misdemeanours, with a fine per infringement up to 10% of the company’s turnover in the year immediately preceding the final decision issued by the Competition Authority. And accessory sanctions can also be imposed, including, among others, structural and/or behavioral remedies, as well as publication of the infringement decision in the Portuguese Official Gazette and in national, regional or local newspapers.

- Are there filing requirements?

Yes. A concentration between undertakings is subject to notification to the Competition Authority after the parties have concluded an agreement and prior to its implementation, if this is to be the case, following the date of the preliminary announcement of a public offer of acquisition or exchange, or of the announcement of the acquisition of a controlling shareholding in an undertaking with shares listed on a regulated stock market or, in the case of a concentration resulting from a public procurement procedure, after the definitive tender selection and before the public contract is signed off.

The concentration is subject to notification to the Competition Authority if one of the following conditions is fulfilled: (i) as a consequence of the concentration, a market share equal to or greater than 50% of the domestic market in a specific product or service, or in a substantial part of it, is acquired, created or reinforced; (ii) as a consequence of the concentration, a market share equal to or greater than 30% but smaller than 50% of the domestic market in a specific product or service, or in a substantial part of it, is acquired, created or reinforced in the case where the individual turnover in Portugal in the previous financial year, by at least two of the undertakings involved in the concentration is greater than EUR 5 million, net of taxes directly related to such a turnover; or (iii) the undertakings that are involved in the concentration have reached an aggregate turnover in the previous financial year greater than EUR 100 million, net of taxes directly related to such a turnover, as long as the turnover in Portugal of at least two of these undertakings is above EUR 5 million.

The filing is made in accordance with the notification form provided in Competition Authority Regulation no. 60/2013, February 14. The notification is subject to the payment of a fee which, depending on the turnover of the companies involved in the transaction, can range between EUR 7,500 and EUR 25,000 – Please see Competition Authority Regulation no. 1/E/2003.
C. Environmental Regulations

- Is the business of the investor subject to environmental regulation?

Depending on the investor’s area of activity, his business may be subject to environmental regulations, namely to the statutes described above in Chapter II (General Considerations) Section D, question 2 (Explain any environmental regulations), among others.

- If so, are there added costs involved (e.g. audit requirements)?

Again, depending on the investor’s area of activity and on its specific characteristics, as well as on its facilities’ characteristics, compliance with environmental regulations may or may not involve added costs. However, such costs are only determinable before a given situation and are not likely to be estimated in abstract.

D. Government Approvals

- Are government approvals required for the anticipated business?

There is no such thing as general government approval as a requirement for the establishment of a business in Portugal. However, depending on the specific activities that the investor intends to perform he may or may not need to obtain a license or to previously communicate his business to the Administration. For further information on licensing procedures please refer to Section F below.

E. Insurance

- Must the enterprise carry insurance?

In Portugal companies are not, as a consequence of incorporation, required to carry insurance. However, there are some insurance obligations which apply to a wide variety of companies. We highlight the obligation to carry workers’ occupational injury insurance, generally applicable to any company with a working presence in Portugal, and the obligation to carry motor vehicle insurance, generally applicable to any company that owns or uses motor vehicles in Portugal. Moreover, the carrying out of certain activities will render a company subject to specific mandatory insurance requirements.

  - If so, what kind of risks must be insured?
Not applicable. Please refer to the answer above.

• Is there a state monopoly on insurance?

There is no state monopoly on insurance in Portugal. However, insurance is a regulated activity in Portugal. The local regulator is the Portuguese Insurance Institute (Instituto de Seguros de Portugal). It supervises insurance companies’ activities in Portugal, such supervisions being especially strong when they offer mandatory insurance to the public. In those situations, they must register their policies with the Instituto de Seguros de Portugal, where compliance of those policies with the applicable rules will be checked. The Instituto de Seguros de Portugal may also require certain amendments to be made in the terms of those policies, as well as impose uniform policies when related to mandatory insurance.

F. Licenses/Permits

• Are licenses or permits required for the anticipated activity?

There is no general government approval required for the establishment of a business in Portugal. However, certain and specific activities may require a license or some other form of authorisation that must be issued by the Administration.

• If so, how does the investor apply for and receive the necessary license or permit?

In most cases, the investor must present an application to the Administration, requesting a license or permit, and present all the documents required by law with the application. In other situations, it is only necessary to provide a declaration or registration.

• How long does it take to receive the license or permit?

Depending on the type of business, the investor may have to procure licenses or authorisations. There are four main types of licenses that may be required: (i) industrial licensing; (ii) commercial licensing; (iii) touristic licensing; and (iv) environmental licensing. Please bear in mind that there may be other licenses or authorisations that may be required.

Industrial licensing

Decree-Law no. 169/2012, August 1, establishes the legal regime for Industrial Activity and defines the licensing procedure for the installation and operation of industrial facilities listed in the diploma.
According to the said statute there are three different types of industrial facilities:

(i) Type 1 – those of the highest risk, namely those that are subject to at least one of the following statutes: (i) Environmental Impact Assessment legal regime; (ii) Integrated Pollution Prevention and Control legal regime; or (iii) Serious Accidents Involving Hazardous Substances’ Prevention legal regime.

(ii) Type 2 – those of medium size and medium environmental risk, that are not included in type 1 and that meet at least one of the following circumstances: (i) a contracted electrical capacity equal to or higher than 99 kVA; (ii) a thermal capacity higher than $12 \times 10^6$ kJ/h; (iii) employing more than 20 (twenty) workers; (iv) need to obtain title for greenhouse gas emissions; or v) need for obtaining title or opinion for waste management, under Decree-Law no. 178/2006, September 5.

(iii) Type 3 – those facilities that are not included in Types 1 and 2.

The licensing procedure will depend on the type of facilities that the investor intends to explore. Type 1 facilities are subject to a prior authorization procedure (which comprehends firstly the authorization of the facilities’ installation and secondly its operation). Type 2 facilities are subject to a prior communication with deadline procedure, which is a simpler procedure than the latter, whereas Type 3 facilities are subject to a mere prior communication procedure.

Depending on the activity to be performed, the applications for the above mentioned approvals are submitted either to the local unit from the Ministry of Economy) or to Direcção-Geral de Energia e Geologia (another service from the Ministry of the Economy) or the relevant departments of the Ministério da Agricultura, do Desenvolvimento Rural e das Pescas (Ministry of Agriculture, Rural Development and Fishing) or for Type 3 facilities, registration takes place in the Municipal Council of the area where the industrial unit is to be located. Moreover, for Type 3 facilities, if they are to be located in a Responsible Business Area (ZER) the licensing authority will be the area’s managing company.

In what concerns the average time that it takes to obtain an industrial license, we must stress that this new licensing scheme is very recent and that there is no practical experience in its application so far; therefore it is impossible to estimate such time period. Nevertheless, although Decree-Law no. 169/2012 does not establish a global maximum period for the duration of each different type of procedure, please note that saving time for both private parties and the
Administration was one of the main concerns of this statute (namely by establishing tacit approvals in the event of non-compliance by the Administration with the time limit established for each phase of the different licensing procedures or by foreseeing lighter bureaucratic procedures such as the mere prior communication).

**Commercial licensing**

Commercial licensing is generally covered by the legal regime for *Construction and Land Development* (RJUE, approved by Decree-Law no. 555/99, December 16, amended by Decree-Law no. 26/2010, March 30, and Law no. 28/2010, September 2) and therefore, it generally falls under the Municipal Council’s jurisdiction to issue commercial use authorizations to the investor’s premises. However, there are two other statutes that must be taken under consideration in what concerns commercial activity:

(i) Decree-Law no. 259/2007, July 17, applicable to commercial establishments and warehouses handling food products as well as other non-food commercial establishments and service providers whose operations involve health and safety risks – this statute foresees a specific prior declaration procedure, according to which the investors take full responsibility for ensuring that the establishment fulfils all the applicable requirements for the exercise of their business activity. This prior declaration needs only to be presented within 20 (twenty) days prior to the opening or modification of the establishment.

(ii) Decree-Law no. 21/2009, January 19, applicable to the installation and modification of retail commercial establishments and to the installation of commercial complexes – which sets out a more complex authorization procedure. According to this statute, retail establishments are namely those with a sales area of 2,000 sq m or more, or those belonging to a company incorporated in a group that operates at a national level a total sales area of 30,000 sq m or more, regardless of the sales area of each establishment. According to the same statute, commercial complexes are those with a gross leasable area of 8,000 sq m or more.

Before starting any commercial activity the investor is advised to contact the municipality of the area in question in order to ascertain if the envisaged business activity is subject to any special licensing procedure. In any case, without prejudice to the powers of other interested parties (namely...
within the scope of the above mentioned Decree-Law no. 21/2009), the municipality is generally responsible for monitoring the commercial licensing procedure.

Regarding the average time it takes to obtain a commercial license, it varies from one municipality to another as well as it depends on the specific features of the facilities and on their activities. However, RJUE foresees that certain requests might be tacitly approved when the municipalities exceed the time limits they have to decide.

**Touristic licensing**

Decree-Law no. 39/2008, March 7, amended by Decree-Law no. 228/2009, September 14, establishes the legal regime for the *Installation, Exploration and Operation of touristic facilities*. This diploma does not preclude the application of the legal regime for *Construction and Land Development* (RJUE). Therefore, the installation of a touristic project is also subject to a construction license or to the admission of a prior communication procedure (when the project’s installation involves construction works) and/or an authorization of use for touristic purposes, all of those issued by the local municipal council pursuant to the RJUE, as well as a favourable decision issued by the Portuguese Tourism Institute (*Turismo de Portugal, I.P.*). Note that although they are issued by different entities, all these licenses and opinions are obtained within the same procedure. The Portuguese Tourism Institute’s opinion is meant to confirm the suitability of the project for the use intended by the investor and the compliance with all mandatory statutes. This opinion is binding when it is not favourable to the project and it must be issued within 20 days under penalty of agreement with the project as submitted by the investor.

**Environmental licensing**

Decree-Law no. 173/2008, August 26, sets out the legal regime for integrated pollution prevention and control and establishes the *Environmental License*. The said statute is applicable to different industrial activities detailed in its annexes including, among others, energy, metals, mineral, chemical and waste management industries. It also establishes different measures to prevent or reduce emissions in the air, water and soil resulting from those activities.

The environmental license is required for industrial establishments described in the above mentioned annexes to Decree-Law no. 173/2008 in order to operate, although such license is not required for construction works of the facilities (which must be licensed or previously communicated in accordance with the legal regime for *Construction and Land Development* – RJUE.)
The environmental license is issued by the Portuguese Agency for the Environment (APA) and it conforms to the specific authorization regime of each facility’s activities (see industrial licensing, above). However, it must be stressed that the environmental license legal regime does not overlap other legal diplomas that are applicable in the licensing of the activities, nor overrides the compliance with certain statutes like the Environmental Impact Assessment’s legal regime.

The legal regime for Environmental Impact Assessment is regulated in Decree-Law no. 69/2000, May 3, amended by Decree-Law no. 197/2005, November 8, which identifies the projects that must undergo that procedure. This procedure comprehends the following phases: (i) project selection and the determination on whether it is subject to or exempt from environmental impact assessment according to annexes I and II to Decree-Law no. 69/2000; (ii) definition of scope of the assessment (optional); (iii) elaboration of environmental impact study, which must contain a description of both the positive and negative environmental aspects of the project as well as of the anticipated measures to avoid, reduce or compensate for any negative aspects; (iv) technical assessment by the Portuguese Agency for the Environment (APA) or by the local Regional Coordination and Development Committee (CCDR) of the environmental impact study; (v) declaration of environmental impact, which contains the ministerial decision on the project’s rejection, conditional approval or approval; and (vi) post assessment, in order to verify the project execution and operation’s compliance with the declaration of the environmental impact’s terms and conditions as well as to monitor effective the environmental impact of the project.

The time limit for the Administration to decide on the issuance of the declaration of environmental impact is 140 (one hundred and forty) days for projects covered by Annex I to Decree-Law no. 69/2000 and 120 (one hundred and twenty) days for projects covered by Annex II of the said statute, both counting from the submission of the project and of the environmental impact study by the investor to the relevant body. Note that the above mentioned time limits can be reduced to 80 (eighty) days if the project is considered structural for the Portuguese economy by the ministers responsible for the areas of the economy and the environment.

IX. OPERATION OF THE BUSINESS
A. Advertising
- **Are there restrictions on advertising?**

  The Advertising Code (*Código da Publicidade*) provides the general legal framework that is applied to advertising in Portugal, although for certain specific products and services, it may be necessary to occasionally consult other legal diplomas.

  Rather than stress restrictions, the Advertising Code stresses the need for advertising to abide by certain principles that the advertiser must respect when creating his advertisement, namely that the latter must be lawful, identifiable, evident and truthful. Subliminal advertising is forbidden and product placement is tightly regulated, as is comparative advertising.

  Failure to abide by the advertising rules may give rise to misdemeanour procedures that impose fines and suspend the advertiser’s right to advertise his products or services. Urgent procedures can be adopted to pull an advertising campaign off the market or the air.

  It is necessary to note that direct marketing, particularly when done through the Internet, is subject to additional rules that, *inter alia*, seek to create some order in this field and prevent spamming and other aggressive commercial practices.

  It is also worth pointing out that a self-regulating advertising body (*ICAP - Instituto Civil da Autodisciplina da Comunicação Comercial*) exists in Portugal, which was created to solve advertising disputes in a swift and just manner. Many major firms belong to this self-regulating body and it is, today, the more common forum to discuss advertising issues between major corporations.

### B. Attorneys

- **Is it necessary to have local counsel?**
- **How can local counsel be found?**
- **How much are attorneys’ fees?**

  In order for businesses to operate and develop in Portugal, the need for legal counsel varies according to the specific business and its complexity.

  It is advisable to contact an attorney prior to entering into a business agreement so that all legal aspects are covered or taken into consideration.
Most Portuguese lawyers practice on an individual basis or in small informal groupings. However the number of organized law firms has been growing. These can be accessed through a variety of sources.

The internet offers one of the most effective means to discover local counsel. Some of the main internet sites at an international level where Portuguese law firms can be found are the following:

(i) [www.legal500.com](http://www.legal500.com)
(ii) [www.worldlegalforum.com](http://www.worldlegalforum.com)
(iii) [www.portugalofer.com](http://www.portugalofer.com)
(iv) [www.portuguese-chamber.org.uk](http://www.portuguese-chamber.org.uk)
(v) [www.chambersandpartners.com](http://www.chambersandpartners.com)

Apart from the Internet local law firms can be found through information provided by the Portuguese Embassies all over the world.

In Portugal law firms are also listed in every telephone directory under the title *Advogados*, a helpful research tool.

Attorneys’ fees in the major law firms are generally as follows:


Most firms offer alternative fee arrangements.

C. Bookkeeping Requirements

- **Must the investor keep local books of accounts?**

  Portuguese law imposes requirements to keep accounting records and to prepare and disclose accounts.

- **In what form must the investor keep accounts (e.g. GAP, in what language, etc.)?**

  Since January 1, 2010, Portuguese companies must keep accounts according to the Accounting System Standards (*Sistema de Normalização Contabilística/SNC*). The SNC’s main purpose was to transpose, to the Portuguese jurisdiction, the Regulation (EC) number 1606/2002, July 19, which established the adoption and use, within the European Community, of the International Accounting
Standards (IAS) and the International Financial Reporting Standards (IFRS) as well as the International Reporting Interpretations Committee (SIC/IFRIC).

Therefore, a Portuguese company must keep accounting records which are sufficient to show and explain the company’s transactions (i) to disclose with reasonable accuracy at any time the financial position of the company at that time and (ii) to enable the directors to ensure that the accounts comply with the legal requirements.

Every year, directors must prepare the financial statements (balance sheet, profit and loss accounts, among others) and the annual report (concerning the company activity) and submit them for the approval by the competent bodies of the company – no later than 3 months following the end of each financial year or within 5 months for companies that submit consolidated accounts or use the equity method. All books, accountings and support documents must be kept in good order for a ten year period.

A Portuguese company must also file the IES declaration (annual statement concerning tax and accounting information) which should be submitted by Internet by the accountant of the company – no later than July 15 each year.

Documents and books of accounts must be prepared in the Portuguese language, but a translation can be attached to them.

D. Business Ethics/Codes

- Are there certain business ethics or codes, which the investor must follow (e.g. GAAP for accountants, etc.)?

The business ethics manuals/ codes must comply with the relevant rules of competition law.

There are no specific business ethics or codes of fiscal nature for the investors to follow.

E. Consumer Protection Laws

- Are there consumer protection laws, which apply to the investor's operations?

Technological and scientific development, along with massive production of goods, market complexity, distance between producer and consumer, constant consumption, aggressive sales methods, misleading publicity and, more recently, the changes introduced by globalization and the Internet revolution, have introduced major transformations in western countries since the 1960s,
which led to the appearance of a new phenomenon referred to as the “consumer society”. This new phenomenon simultaneously led to a greater need to protect consumers and gave rise to consumer lobbying associations and social initiatives.

In Portugal, although consumption started to escalate in the 1960s as the country joined EFTA and OCDE, legislative measures and others in the area of consumer protection became visible only in the 1970s. The signature of the agreements between Portugal and the European Economic Community (EEC) on 22 July 1972 represented a significant contribution towards this process.

Thereafter, the Portuguese Constitution of 1976 imposed on the State the primary task of “protecting the consumer namely through supporting the creation of consumer cooperatives and associations” (Article 81/m) and forbade misleading advertising.

In fact, it is the Constitution that primarily defines the main pillars upon which the normative structure of consumer protection is based. Nevertheless, after Portugal’s adhesion to the European Union (by then, EEC), legislative initiatives in this area have been increasingly inspired by European law.

In light of the above mentioned, it can be said that, in Portugal, consumer protection is an estate task, safeguarded both through domestic legislation, enacted by our Parliament and Government, and European legislation, enacted by the competent European Union institutions. Consequently, it is important to start by a reference to European Union and Portuguese Constitutional law that define the legal framework of consumer protection in Portugal and precede the creation of all statutory laws and other regulations introduced in this area.

Finally, to complete this analysis of consumer protection in Portugal, it is also essential to address the main aspects of consumer dispute resolution (Access to Justice) and Portuguese Quality System.

**European Union Law**

Originally, the Treaty of Rome did not contain specific rules concerning consumer policy. Notwithstanding, in 1975 the EU Council adopted the first consumer protection program, entitled “The preliminary program of the European Economic Community for a consumer protection and information policy”, following Resolution no. 543, 17 May 1973, by the Consultative Assembly of the European Council, which contemplated consumer rights for the first time.
However, in terms of primary law, it was only with the Single European Act of 1986 that consumer protection became an autonomous objective for the European Community; even though it was necessary to wait for the European Union Treaty (Maastricht Treaty) in 1993 for the Community to assume a clear will of “contribution to the strengthening of consumer protection” as stated in Article 3 (s), followed by the specific intervention at this level accomplished with the introduction of Article 129-A under Title XI “Consumer Protection” (presently Article 153 in Title XIV) which determined that “In order to promote the interests of consumers and to ensure a high level of consumer protection, the community shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organize themselves in order to safeguard their interests.”

Together with the Treaty of Maastricht, the Treaty of Amsterdam in 1997 also represented an important contribution to the development and deepening of a European Law on consumer protection.

In summary, the European Community orientation, expressed in the mentioned programs and treaties, establishes five main objectives for consumer protection policy:

(i) Protection of health and safety;
(ii) Protection of consumers’ economic interests;
(iii) The right to reliable information;
(iv) Consumer redress;
(v) Consumer representation at the national and the Community level.

Apart from the Treaty, the primary intent of European Law is to approximate and harmonize the Member States’ several internal laws on consumer protection in line with the above described objectives. This purpose has mainly been accomplished through the adoption of several directives to be implemented by each Member State, among which one would highlight the following:

(i) Directive 85/577/EEC on contracts negotiated away from business premises (Doorstep Selling Directive);
(iii) Directive 90/314/EEC on package travel, package holidays and package tours;
(iv) Directive 93/13/EEC on unfair terms in consumer contracts (Unfair Contract Terms Directive);
(v) Directive 97/7/EEC regarding consumer protection in distance contracts (Distance Selling Directive);
(vi) Directive 99/44/EC on the sale of consumer goods and associated guarantees (Consumer Sales and Guarantees Directive);
(vii) Directive 99/93/EC establishing the framework for electronic signatures;
(x) Directive 2002/22/EC, as amended by Directive 2009/136/EC, on universal service and users’ rights relating to electronic communications networks and services (Universal Service Directive);
(xiv) Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks;
(xv) Directive 2006/114/EC concerning misleading and comparative advertising;
(xvi) Directive 2007/64/EC on payment services in the internal market;
(xvii) Directive 2008/48/EC on credit agreements for consumers (Consumer Credit Directive);
(xviii) Directive 2008/122/EC on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts (Timeshare Directive);


Consequently, according to the rules on the division of competences between the Member States and the Community, the increase of Community legislative action in the area of consumer protection will imply a progressive compression of the Member States’ attributions in this field.

Notwithstanding, the fact is that the EU grants the Member States a great margin of manoeuvre in the implementation of these Directives, as they are mandatory solely in regard to the objectives defined, being the form and the means used for such implementation freely established by the Member States. In addition, it should also be stressed that the consumer protection policy is also based both on a principle of minimum harmonization, which enables the application of the national consumer protection regime that is considered to be more favourable for the consumer and on the subsidiary principle introduced by the Maastricht Treaty, which limits the Community’s intervention to those situations where the European objectives are not properly transposed into domestic law.

**Portuguese Constitutional Law**

The Portuguese Constitution of 1976 sets forth in Article 81, section j) that the protection of consumers’ rights and interests as a priority incumbency of the Portuguese State at an economic and social level.

Subsequently, the Constitutional revision of 1982 defined the consumers’ fundamental rights, and the successive constitutional revisions progressively settled the consumers’ position and revealed the legislator’s growing attention to consumer protection issues, which were finally promoted to the category of fundamental rights and included in the respective Title under the Chapter of economic, social and cultural rights and duties under the Constitutional revision of 1989.

For its notorious relevance, note should be made to Article 60 of the Portuguese Constitution, which (i) defines, in section 1, the general framework of consumer protection (i.e., quality of goods and services consumed, education and information, health protection, security protection, economic interests protection, consumer redress), (ii) prohibits, in section 2, all forms of occult, indirect or misleading advertisement and determines that the advertising activity must be disciplined by law, and
(iii) in section 3 refers to the role of consumer associations and consumer cooperatives in consumer protection issues.

Among many others, also noteworthy is the Portuguese Constitution (expressly mentioning class action rights in consumer protection matters).

The Portuguese Consumer Protection Regime

The so-called Portuguese Consumer Protection regime is established both by (i) Law no. 24/96, July 31 (as amended by Decree-Law no. 67/2003, April 6 and Law no. 10/2013, January 28), which is usually called Consumer Protection Act (Lei de Defesa do Consumidor) and (ii) Decree-Law no. 67/2003, April 6 (as amended and republished by Decree-Law no. 84/2008, May 21), which implemented Directive 1999/44/EC and is usually called Sale of Consumer Goods and Associated Guarantees Regime (Regime Jurídico da Venda e Garantia de Bens de Consumo).

These statutory acts derive from Article 60 of the Portuguese Constitution and specify not only the general rights of any citizen as a consumer, but also the State's duties in what concerns consumer protection.

Law no. 24/96 sets forth the general rules and principles of consumer protection in Portugal and, thus, starts by defining consumers as any and all individuals to whom goods are supplied, services are rendered or any rights are transmitted for private (i.e., non-professional) use, by someone who professionally pursues an economic activity with profitmaking purposes (Article 2/1).

In general terms, Law no. 24/96 confirms the constitutional incumbencies assumed by the Portuguese State and Public Administration concerning consumer protection (Article 1) and grants consumers a wide list of rights among which the right to the quality of goods and services (Article 4), the right to health protection and physical security and the corresponding obligation of control by the public authorities in order to detect and eradicate from circulation the goods and services that can cause harm (Article 5), the right to a consumer education (Article 6), the right to information (Article 8), the right to the protection of economic interests (Article 9), the right of participation through the consumers’ representative associations (Article 15), and the right of access to justice (Articles 10, 12 and 13).

Moreover, this Consumer Protection Act also introduced some significant changes in our former consumer protection regime, namely (i) by extending the definition of “consumer products”, so as to include all goods, services and rights supplied, rendered and transmitted by public entities,
(ii) by establishing a 2 year period for the consumer to claim his rights concerning movable property and a 5 year period for real estate property in case of defective products, (iii) by deeming null and void all waivers or limitations to consumer’s rights, (iv) by introducing a mandatory period of assistance after the sale to be ensured by the products’ suppliers, (v) by granting consumers a new right towards an anticipatory termination of contract within a minimum period of 7 days after the product’s purchase, (vi) by allowing consumers to prevent, correct or terminate commercial practices considered to be detrimental to their interests, through actions for injunctions, (vii) by recognizing the Portuguese Consumer Institute (Instituto do Consumidor) as a public authority with procedural legitimacy regarding the protection of consumers’ collective and diffuse interests, and (viii) by creating the National Council for Consumers (Conselho Nacional de Consumo) with powers to promote the dialogue between the Government, commercial establishments, and consumers.

On the other hand, Decree-Law no. 67/2003 mostly materializes many of these principles and general rights, namely (i) by listing a number of situations in which consumer goods are presumed not to be in accordance with the agreed (Article 2/2), (ii) by granting consumers, in case of a products’ lack of conformity, the right to the product’s repair or substitution, to price reduction or contract termination, under certain limits and conditions (Article 4), (iii) by establishing a legal mandatory minimum guarantee period of 2 years after the products sale for movable property and 5 years for real estate property (Article 5), (iv) by granting consumers the right to hold the product’s manufacturer directly liable for the product’s lack of conformity, regardless of the latter’s right of recourse ("direito de regresso") against the seller (Articles 6 and 7).

Other relevant legislation

Apart from the above mentioned statutes, consumer protection matters are defined through a plethora of legislation, of which one would highlight the following:

(i) Class Action Law – Law no. 83/95, August 31;
(ii) Extrajudicial Consumer dispute resolution (out-of-court-settlement procedures) – Decree-Law no. 146/99, May 4;
(iii) Injunction Actions towards consumer protection – Law no. 25/2004, July 8;
(iv) Advertising Code – Decree-Law no. 330/90, October 23, as amended by several subsequent acts, among which, most recently by Decree-Law no. 8/2011, April 11;
(v) Distance contracts, doorstep contracts, automatic sales and sporadic special sales, and certain prohibited terms of sales and services – Decree-Law no. 143/2001, April 26, as amended by Decree-Law no. 317/2009, October 30;

(vi) Distance contracts related to financial services – Decree-Law no. 95/2006, May 29, as amended by several subsequent acts, among which, most recently by Decree-Law no. 242/2012, November 7;

(vii) Operation period of commercial establishments – Decree-Law no. 48/96, May 15 and Ordinance no. 153/96, May 15, as amended by several subsequent acts, among which, most recently by Decree-Law no. 48/2011, April 1;

(viii) Unfair Standard Contract Terms (Abusive clauses) – Decree-Law no. 446/85, October 25, as amended by several subsequent acts, among which, most recently by Decree-Law no. 323/2001, December 17;

(ix) Unfair market practises towards consumers – Decree-Law no. 57/2008, March 26;

(x) Safety of products and services – Decree-Law no. 69/2005, March 17, as amended by several subsequent acts, among which, most recently by Decree no. 126-C/2011, December 29;

(xi) Food Labelling – Decree-Law no. 156/2008, August 7;

(xii) Display of prices – Decree-Law no. 138/90, April 26, as amended by Decree-Law no. 162/99, May 13;

(xiii) Promotions and reduction of prices – Decree-Law no. 70/2007, March 26;

(xiv) Consumer Credit Agreements – Decree-Law no. 133/2009, June 2, as amended by several subsequent acts, among which, most recently by Decree-Law no. 72-A/2011, June 18;

(xv) Product liability – Decree-Law no. 383/89, November 6, amended by Decree-Law no. 131/2001, April 24;

(xvi) Complaints Book – Decree-Law no. 156/2005, September 15, as amended by several subsequent acts, among which, most recently by Decree-Law no. 242/2012, November 7;

(xvii) Protection of public services users – Law no. 23/96, July 26, as amended by several subsequent acts, among which, most recently by Law no. 44/2011, June 22;
(xviii) Time sharing – Decree-Law no. 275/93, 5 August 1993, republished by Decree-Law no. 180/99, May 22, and last amended by Decree-Law no. 37/2011, March 10;
(xix) Package travel – Decree-Law no. 209/97, August 13, as amended by several subsequent acts, among which, most recently by Decree-Law no. 61/2011, May 6;
(xx) Consumer cooperatives – Decree-Law no. 522/99, October 12;

F. Construction

- **What are the costs of construction?**
  
  It is not possible to calculate, in abstract, the amount of the costs of construction. It would depend on several factors, such as property location, kind of construction and landscape characteristics and applicable municipal regulations.

- **Are permits required for construction?**
  
  Yes, permits are required for construction. Under Portuguese law, the government must annually set the average value of construction per square meter for the Portuguese territory. Thus, pursuant to Decree Order no. 79/2013, February 19, the average value of construction per square meter in Portugal during 2013 was fixed in EUR 659.56.

- **How authorization to construct is obtained?**
  
  Authorization to construct is required from the respective municipality of a construction project. In order to obtain the authorization the developer has to comply with three steps: (i) submit to the assessment of municipality, the building plan; (ii) after the building plan is approved, the developer shall submit to the municipality the detailed project, which shall include electric, water, power supply and distribution of electricity, gas installation (if required), telephone and sewer connections; and (iii) request the issuance of a building permit, including a mandatory technician responsible for the construction work, a contractor with construction permit, a book of work, and pay the municipal taxes.

- **How long does it take to receive authorization?**
The municipality decides on the authorization to construct within 30 days. After that period has elapsed, the developer has 1 year to request the issue of the construction license title (called “Alvará”) from the municipality, which may be extended only once. This is an essential phase, as it is with this title that the license is granted.

**Legal Regime**

The legal regime for urban construction is described in Decree-Law no. 555/99, December 16, as amended by Decree-Law no. 266-B/2012, December 31 and Law no. 28/2010, September 2, which is designated “Legal Regime for Construction and Land Development” (RJUE).

Besides the above mentioned legislation, applicable to the whole Portuguese territory, there are local provisions, approved by the municipalities.

These provisions may be divided into three groups:

(i) Municipal land use plans (*planos directores; planos de urbanização; planos de pormenor*);

(ii) Municipal regulations on urban construction; and

(iii) Municipal regulations for fees and compensations (payable for the approval of urban operations by the municipality).

Finally, concerning the applicable legal regime, there are still land use plans with a national application, prepared by the government, applicable in certain areas such as the coast line and natural reserve areas.

The above mentioned land use plans and regulations are foreseen in Decree-Law no. 380/99, September 22, as amended by Decree-Law no. 2/2011, January 6, regulating the elaboration, approval and execution of the land use plans, including its three different levels of intervention: national, regional and municipal, which must be taken into account not only by private entities when investing in real estate, but also by municipalities which have authority for the approval of construction licenses and authorizations.

**Construction Procedures**

The RJUE currently sets forth two different levels of permits or procedures for the licensing of urban constructions:

(i) License procedure;

(ii) Prior communication procedure.
Each type of procedure is used for different purposes, according to the type of work that is being carried out and the location of the construction.

The criteria in the RJUE for determining the type of applicable procedure takes into account the higher or lower level of pre-existing definition of urban parameters (total construction area, number of floors, construction volume, etc.) and the legal protection given by land use plans or previous municipal decisions. The fewer regulations and definitions regarding the site, the more complex and complete the procedure for licensing a given urban operation will be.

The license procedure is the most complex procedure and must be followed in cases where the land use plans or allotment plans are non-existent. In such cases it is necessary for the competent authorities to have greater control over what is being constructed and in determining the limits for construction which has not yet been defined in previous regulations for land use.

On the contrary, the prior communication procedure is usually applied to urban operations where previous regulation concerning the area where the construction or operation is going to take place has been approved, and therefore, specific rules for the works to be carried out have been set out.

Preservation works, defined by the RJUE as cleaning, refurbishing and repair, necessary to maintain the building in the same state as at the date of construction, reconstruction or alteration, are exempt from any licensing or prior communication procedures, except in buildings that have been, or are on the verge of being classified (for instance, as a public monument or of public interest) and buildings located on sites that have been classified or are about to be classified. Although, the works in classified buildings or units, not involving alterations in the buildings, facades, number of floors and shape of the roofs, are also exempt from municipal licensing. In addition to these works inside the buildings, there are also works that have small urban relevance (obras de escassa relevância urbanística), which are not subject to licensing, but only a simplified authorization procedure or prior communication procedures.

The deadlines set out for each of these procedures will be addressed below. However, please note that the deadlines referred to in the procedures mentioned below are not, in practical terms, complied with. Therefore, the licensing procedure for construction may take longer than the sum of the deadlines described below not only because there are specific extension periods for such deadlines, which are counted from different dates, according to the issue or non-issuance of the
decisions from the municipality or other entities, but also because public authorities do not comply with such deadlines, making the process much more time consuming.

**Legal requirements for obtaining a construction license**

(i) **Licensing procedure**

The main stages for obtaining a construction license in Portugal are:

(i) Initial application;

(ii) Preliminary approval of the application by the municipality;

(iii) Consultation of public entities outside the municipality;

(iv) Approval of the architectural project;

(v) Final approval; and

(vi) Issue of the Construction license title – “Alvará”.

The licensing procedure is initiated with the presentation of an application by the developer, made in writing to the municipality, attaching all the documents required by law including architectural projects, with several drawings and specifications.

The municipality then proceeds with a preliminary review of all the documentation presented in order to decide whether the request shall be admitted or not. The municipality has a general term of 10 days to proceed with the preliminary review of the initial request. This deadline may, however, be extended whenever the municipality requests any additional or missing information from the developer.

The municipality must, within 5 days counted from the presentation of the initial request or from the date in which the additional or missing information was provided, and if the application is not denied, request statements from any external entities that have, by law, to issue their opinion on the project, such as environmental authorities or health and safety authorities. These entities have, in general, a 20 day period to issue their opinion. In the event they do not issue an opinion within that period, the project is deemed to have been approved by such entities. In cases in which is mandatory the opinions from certain public entities, due to the location of the urban operation in question, the consultation period may go from 20 to 40 days.

After the external entities have been consulted, or after the deadline for their opinion has elapsed, the municipality has a 30 days period for the approval of the architectural project presented by the developer.
Once this is approved, the municipality asks the developer to present detailed plans, which must include electric, water and sewer connections. The developer has a deadline of 6 months to present this project, which may be extended on a once-only basis for a period of 3 months. If these projects are not presented within these deadlines, the procedure is suspended for a maximum of six months. After this deadline has elapsed, the developer is heard and after that the procedure may expire.

Alternatively, the detailed plans may be presented at the same time as the architectural project with the initial request. This is an option for the developer in the licensing procedure, which will make the deadlines shorter and the licensing procedure faster.

After this deadline has elapsed, the municipality must decide on the final approval within a 45 or 30 days period, according to the type of operation.

Once the license is approved by the municipality, the developer has 1 year to request the issue of the construction license title (called “Alvará”) from the municipality, which may be extended only once. This is an essential phase, as it is with this title that the license is granted its effects. If the “Alvará” is not requested within the above-mentioned term, the license shall expire.

Construction may only begin once the “Alvará” is issued by the municipality. The title will contain a date for when the works may begin and the deadline for completion of the works.

Please note however, that at the request of the developer, the municipality may issue a partial license allowing work to begin on the structure of the building immediately after the filing of all the detailed plans. However, the architectural project must have been approved and a deposit made for eventual demolition in case the municipality denies the request for construction.

(ii) Prior communication procedure

As referred to above, the prior communication procedure is another form of municipal control over urban operations. According to applicable law, this procedure will be applied to urban operations where a previous regulation, concerning the parameters to be complied with, has been approved, whether by municipal land use plans, or by previous municipal decisions.

The above mentioned works must follow this procedure, which consists of a notice sent by the developer to the municipality, with the description of the works to be executed, attaching the drawings and specifications required by law. The municipality has a 20 day period (or 60 day period
when it is necessary to consult external entities) to reject the notice on the grounds that such works do not comply with legal and mandatory requirements.

If the municipality does not reject this prior communication within the above mentioned period, it is deemed approved and the developer may start the works upon payment of the necessary fees.

(iii) Prior Information

This procedure allows the developer to request a preliminary decision from the municipality concerning a certain urban operation before presenting the licensing process.

The prior information procedure covers a wide range of issues, including types of procedures to follow, feasibility of the operation, existence of public restrictions or servitudes, estimates for municipal fees and taxes to be paid, or any conditions for the envisaged operation, pursuant to the licensing or prior communication procedure.

The main advantage of the prior information procedure, among many others, is that the decision from the municipality is binding during a one year period, counting from the favourable decision during the prior information procedure. Other advantages are shorter approval deadlines, dismissal of the consultation of external authorities that have been consulted during the prior information procedure.

- What fees are involved?

It is not possible to calculate, hypothetically, the amount of fees for a construction project. The fees are calculated according to the dimension of the project as a whole. According to the law, the Municipalities must determine the amount of the fees for construction in accordance with the applicable legal criteria, and in accordance with municipal regulations (referred to above). Therefore, these taxes and fees may vary from municipality to municipality.

G. Contracts

- Can the investor freely enter into local contracts?

In wide terms, the investor can freely enter into local contracts.

- Can the law of another country govern the contracts?

Contracts entered into in Portugal can be governed by the law of a foreign jurisdiction. The relevant law is Regulation (EC) no 593/2008, June 17, applicable to relations between European
Union Member States and the 1980 Rome Convention on the law applicable to contractual obligations, applicable to relations with other states.

Both mentioned laws stipulate that a contract shall be governed by the law chosen by the parties. However, when all other elements relevant to the situation at the time of the choice are located in a country other than the country whose law has been chosen, the parties shall not prejudice the application of mandatory provisions of that other country’s law. Notwithstanding, there are some specific provisions that cannot, in any case, be derogated by the parties, such as, provisions concerning employment contracts and consumer contracts.

H. Price Controls

- Are there applicable price controls?

As a general rule Portugal has abolished most price controls. However, price controls remain in effect in certain activities, including: (i) supply of electricity and gas to end consumers by last resource suppliers; (ii) postal services, under the universal postal service; (iii) social funeral services; (iv) medicines for human use; (v) taxi services; (vi) water supply for human use; (vii) telecommunication services under the universal service remit; and (vii) school manuals for primary and secondary education.

I. Product Registration

- Must the entity register its product?

In general terms, there is no need to register products in Portugal in order to market and sell them. Many products have associated legislation that regulates the characteristics and quality of the product and its labelling, packaging, storing, transportation and so forth, but, as a general rule, there is no registration obligation, per se.

Naturally, there are several exceptions to the above general rule, which are warranted due to the special and specific nature of the product in question. The prime example of this would be pharmaceutical drugs or cosmetics that need to be registered with the Portuguese Pharmaceutical Authority (INFARMED), before they can be sold in Portuguese territory. Likewise, some dangerous chemical products, explosives, pesticides also need to be registered, as do some products that benefit from a special status (i.e., traditional local agricultural produce such as Port wines).
It is important not to confuse the registration of a product with the registration of the ownership of a product such as is the case, for example, cars, motorcycles, boats, aeroplanes and guns.

- **If so, how is registration obtained?**

For those products that do need to be registered (when taking into consideration the vast universe of products in the market), registration typically involves providing a public, regulatory or overseeing authority with a complete file on the product and, occasionally, samples of the same. Said authority will then analyse the file in order to see if it respects the law and can be placed in the market. If authorised, the company must then typically keep precise records of the batches of products produced and the buyers to which they are sold.

- **How long does the process take?**

The time taken to analyse the product and the cost of this procedure typically depends on the product in question and whether it has already been authorised to be sold in another European Union Member-State.

- **Are there fees involved?**

Fees are normally involved, especially at the preliminary analysis stage. It is advisable to search into this matter on a case by case basis, when the need arises.

**J. Reductions or Return on Capital**

- **Can capital be repatriated while the corporation is still ongoing?**

Yes.

**K. Sale of Goods**

- **Are there restrictions on the manner, time or place of sale of goods?**

There are licensing laws which govern the manner, time and place of the sale of alcohol, tobacco, weapons and pharmaceutical products.

**L. Trade Associations**

- **Are there trade associations the investor can or must join?**
There are trade associations to which the investor can freely join, although, it is not mandatory. The major Portuguese trade association is the Lisbon Trade Association/Portuguese Chamber of Commerce and Industry, that provides a wide range of services, such as, issue of international documents, promotion of commercial relationships, database, technical support (economic-financial, legal, customs, information on setting up companies and investment projects), professional training, publications, room hire, center of commercial arbitration and mediation center.

- **If so, are there fees involved?**
  Yes, the associates must pay an annual fee.

- **Are there mandatory trade practices?**
  There are no mandatory trade practices in Portugal.

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**X. CESSATION OR TERMINATION OF BUSINESS**

**A. Termination**

In Portugal, a business can be terminated without government approval or intervention.

The termination of the legal existence of a company is a two-step procedure: dissolution and liquidation. The dissolution consists in a change of a company’s legal situation by which it enters into a process of termination and which causes the company’s liquidation. The liquidation aims at the cessation of the company’s business and involves the payment of its debts, the collection of its credits and the conversion of its assets into cash.

**Dissolution**

Under Portuguese Law a company can be dissolved in the situations foreseen in its by-laws and (i) at the end of the term of its duration (ii) following the complete fulfillment of its corporate purpose; (iii) due to the supervening illegality of its corporate purpose; (iv) when the company is declared insolvent, or (v) by a shareholders resolution.

The shareholders may resolve on the company’s dissolution (i) at their own discretion, (ii) to acknowledge any of the events referred in (i) to (iii) above or (iii) when (a) for more than one year the number of shareholders is less than the minimum legal required, except if one of the shareholders is a public legal entity or an entity that is legally comparable thereto; (b) the corporate
purpose becomes impossible to fulfill; (c) the company has not carried out any activity for two consecutive years; or (d) the company carries out an activity not included in its corporate purpose.

These last causes of dissolution also constitute, together with other causes specified in the applicable regime (Annex to Decree-Law no. 76-A/2006, March 29) a basis for the shareholders and the company creditors request for the administrative dissolution of the company to the relevant Commercial Registry Office.

In addition to this voluntary procedure of dissolution of the company, the law foresees an *ex officio* procedure of dissolution to be carried out by the Commercial Registry Office when, among other causes, (i) the company has not filed its financial statements for a period of two consecutive years, and the tax authorities has informed the registrar that the company has not filed its income tax return for the same period; (ii) the tax authorities have informed the registrar on the lack of activity of the company, as verified according to the provisions of the applicable tax legislation; (iii) the tax authorities have communicated to the registrar that the company activities have ceased *ex officio*, as defined by the provisions of the applicable tax legislation.

In case the dissolution is promoted by a shareholders resolution, as a rule, the company enters into a liquidation process and the directors (or the liquidators) should request the registration of the dissolution before the Commercial Registry Office.

The Portuguese Companies Code allows for a simplified procedure to be adopted for the termination of companies which have no debts or liabilities, designated dissolution with immediate distribution of assets (*Partilha Imediata*). Tax liabilities that are not due and payable on the date of the dissolution are not a restriction to adopting this procedure. However, in this case, the Portuguese Companies Code establishes that shareholders will be joint, severally and unlimitedly liable for any eventual tax debts. This simplified procedure provides for a simple liquidation which consists of a mere distribution of assets between the shareholders, the terms of which should be drawn-up in the relevant resolution. The registration of this resolution will thus be sufficient to terminate the business of a company.

In the event the company does not own any assets or have any debts or liabilities, an even more simplified procedure for termination will apply – the immediate dissolution (*Dissolução na Hora*).
This procedure is filed before the Commercial Registry Office and allows for an immediate dissolution and liquidation of the company, provided that all of the following requirements are met: (i) a request for dissolution and liquidation is filed by any shareholder or member of the board of directors, having attached a unanimous resolution of the shareholders’ approving the company’s dissolution; (ii) an express reference to the non-existence of assets and debts or liabilities to liquidate is made in the referred resolution.

Once the request is filed, the Registrar declares the dissolution and the termination of the liquidation of the company and makes the relevant registration.

**Liquidation**

(i) **General Aspects**

As a general rule, the company which has been dissolved and which has debts (or debts and assets) will immediately enter into liquidation. As of such moment, the liquidators will handle all liquidation formalities and the distribution of the company’s assets among the shareholders.

Prior to the beginning of the liquidation operations, the company’s financial statements, reported to the date of the dissolution, must be prepared by the Board of Directors within 60 days from the dissolution. These statements shall be approved by the shareholders.

During the liquidation process all debts for which the company’s assets are sufficient shall be paid or guaranteed. After all debts have been paid or guaranteed, the remaining assets can be distributed to the shareholders. The assets can be distributed in kind if the by-laws allow for such distribution or if the shareholders unanimously decide to do so.

The company’s liquidation shall be completed and the distribution of assets shall be approved within two years following the date of the dissolution, notwithstanding a shorter period of time can be defined in the company’s by-laws or by a shareholders’ resolution. The two-year term can only be extended by a shareholder resolution and for a maximum of one year. If at the end of this period the registration on the termination of the liquidation has not been filed, the competent Commercial Registry Office shall initiate the administrative liquidation procedure.

The Portuguese Companies Code allows for a simplified procedure of liquidation to be adopted – liquidation by global assignment (*liquidação por transmissão global*) – by which the shareholders may resolve that all the company’s assets and liabilities are assigned to one or some of
them, with the remaining shareholders paid in cash, provided that the assignment is preceded by written consent of all the company’s creditors.

(ii) Liquidators

Unless the by-laws or a shareholders’ resolution provide otherwise, the company directors are the liquidators. Nevertheless, the shareholders may replace the liquidators at any time or appoint other liquidators. If there is no agreement concerning the liquidators’ appointment, any shareholder, the board of auditors or any company creditor can request the relevant Commercial Registry Office to appoint a liquidator.

The liquidators have the duties, powers and responsibilities of the company’s directors. Additionally, the shareholders can authorise the liquidators to: (i) temporarily carry on with the company’s activities; (ii) enter into any loan agreements necessary to progress with the liquidation of the company; (iii) proceed with the global disposal of the company’s assets; (iv) transfer as a going concern the company’s undertaking.

According to the Portuguese Companies Code, liquidators should (i) execute any pending business of the company, (ii) fulfil all of the company’s obligations, (iii) claim the company’s credits, (iv) convert any residual assets into cash, except if otherwise stated in the by-laws or unanimously decided by the partners, and (v) present a proposal for the distribution of the company’s assets.

Within the first three months of every year, liquidators must present a statement of the liquidation accounts, including a detailed report of the status of the liquidation for the shareholders’ approval. Liquidators must also submit for the shareholders’ approval their final accounts with a complete report describing the liquidation and the results of the liquidation operations, as well as the remaining assets’ distribution plan. In this report liquidators must also state and guarantee that all creditors’ rights have been fulfilled or guaranteed, and that all the respective receipts or evidentiary documents are available for examination by the partners.

When the company’s liquidation is concluded, the liquidators must request the registration of the termination of the liquidation before the Commercial Registry Office. The company ceases its existence with such registration and the Commercial Registry Office notifies ex officio the National Registry for Corporate Entities (Registo Nacional de Pessoas Coletivas), the tax authorities, and social security on its termination.

(iii) Administrative Procedure of Liquidation

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This liquidation procedure takes place at the Commercial Registry Office and is initiated by request of an interested party (the company, its creditors, etc.) or *ex officio* by the registrar (i) following an administrative dissolution carried out *ex officio*, or (ii) when the deadline for the termination of the liquidation has expired, amongst other causes related with the failure to fulfill tax obligations or on the scope of insolvency proceedings.

The Registrar appoints one or more liquidators in the case where the company has not made such appointment and sets out a deadline of no more than one year for the liquidation, extendable only once for an equal period.

Within 30 days after conclusion of the liquidation, liquidators have to present their final accounts and the plan for distribution of the remaining assets. The Registrar notifies the interested parties and invites them to comment on the final accounts and on the plan of distribution for the remaining assets within 10 days. Once the accounts are duly approved, all liabilities are liquidated, and the remaining assets are distributed according to the applicable rules, the Registrar declares and registers the termination of the liquidation.

A special *ex officio* liquidation procedure is applicable in the event the interested parties have not communicated to the Registrar the company’s assets or liabilities for liquidation purposes or in the event the existence of any of the company’s assets or liabilities has not been ascertained, by which the Registrar can terminate the liquidation immediately and make the relevant registration.

**What are the tax consequences of termination?**

For companies in liquidation, the taxable profit is determined by reference to the whole period of liquidation. It should be noted that:

(i) Companies that are dissolved should close their accounts with reference to the date of dissolution to determine the taxable profit from the beginning of the accounting period in which the dissolution occurred to the date of dissolution;

(ii) Throughout the period of liquidation and until the end of the accounting period immediately preceding its completion, there shall take place a provisional annual determination of taxable profit which shall be adjusted after the taxable profit for the entire liquidation period has been determined;

(iii) In the accounting period in which the dissolution occurs the profit referred to in i) and the profit mentioned in the first part of ii) shall be determined separately;
When the liquidation period exceeds two years, the provisional taxable income determined annually in accordance with point ii) referred above shall cease to be of a provisional nature. Any loss incurred prior to the date of dissolution that is still deductible under the companies income code (CIRC) may be deducted from the taxable income equal to the entire period of assessment, given that it does not exceed two years.

In determining the net proceeds of liquidation, where assets are divided among the shareholders, their value for such purpose is taken to be the market value.

The value assigned to each shareholder as a result of the distribution of the liquidation proceeds shall be included in the total reported income, reduced by the purchase price of the corresponding shares. In computing total income for purposes of taxation of the referred difference it should be noted that:

(i) The difference, if positive, is considered as income from the application of capital to the extent of the difference between the value assigned to it and that shown in the accounts of the liquidated company with any excess being regarded as capital gain;

(ii) The difference, if negative, is considered as capital loss, being deductible only if the shares have remained in the ownership of the taxpayer during the three years immediately preceding the date of dissolution, and the amount that exceeds the tax losses transferred in the implementation of the special taxing groups of companies, provided that the entity is not a resident in a country, territory or region with a clearly more favorable tax regime as set out on a list approved by Order of the Minister of Finance.

For shareholders of companies covered by the system of fiscal transparency, the value assigned to them as liquidation proceeds shall be reduced by the amounts already imputed to them and assessed for purposes of taxation, as well as the part corresponding to retained earnings in the company in the accounting periods in which it has been subject to that regime.

- What costs are involved in termination?

The costs of registration of the termination depend on the procedure adopted, ranging between EUR 300 and EUR 500 and on the existence of immovable property to be assigned to the shareholders, which involve a notarial deed and taxes (Municipal Tax on the Transfer of Immovable Property - IMT – and Stamp Duty).
B. Insolvency/Bankruptcy

- What is the extent of the investor's liability in the event of insolvency or bankruptcy?

In general, the liability of investors towards a company’s creditors depends on the type of company that is going insolvent.

When the company which is going insolvent is a general partnership, the investors are subsidiarily liable for the payment of the company’s creditors and the investors are joint and severally liable among them for such payment. This means that if after the liquidation of the company’s assets the proceeds of such liquidation are not enough to grant full payment to all creditors, they can demand the payment of the amounts that remain unpaid after the liquidation of the company’s assets from each and all the investors.

If the insolvent company is a private limited company, the investors are not liable for the company’s debts. Their liability is limited to the amount of their shares. That is so as a general rule. The articles of association may, however, provide that one or more investors may be liable towards the creditors limited to a given amount.

If the insolvent company is a limited liability company, the investors are not liable for the company’s debts. Their liability is limited to the amount of their shares.

There is however a particular case where the investor may be held primarily and unlimitedly liable for the company’s debts whatever is the insolvent company type. That may happen when (i) the company has been reduced to a sole proprietor (investor), (ii) the company was declared insolvent, and (iii) the interested creditors prove that, during the “sole proprietor period”, there has been a breach of the provisions aimed at ensuring that the company’s assets are meant to fulfil the its own debts. When (i), (ii), and (iii) are met, the “sole proprietor/investor” may be held primarily and unlimitedly liable for the company’s obligations entered into during the “single partner period”. Please refer to Chapter VII, Section G above.

Besides the liability for the payment of the company’s debts in the above mentioned circumstances, there are also two cases where the investor may be jointly and severally liable with the manager(s)/director(s) or member(s) of the supervisory body for the acts of the latter that resulted in the company’s insolvency. These are cases of extra-contractual civil liability of the investor towards the company and other investors. While the insolvency proceedings are pending, the person
entitled to bring an action for extra-contractual civil liability of the investor is the insolvency administrator.

**Investor’s liability for *culpa in eligendo***

The investor may be found jointly and severally liable with the manager(s) of the company if the following requirements are met:

(i) The investor must have, pursuant to the by-laws, the right to, alone or jointly with others with whom he has signed a shareholder’s agreement, appoint a manager without needing the consent of other partners;

(ii) The manager appointed must have been found liable towards the company or the partners; and

(iii) It shall be proven that the investor who appointed the said manager had *culpa in eligendo*.

**Investor’s liability for decisive influence***

The investor may also be found jointly and severally liable with the person he is entitled to dismiss or call for dismissal if the following requirements are met:

(i) The investor is permitted, either by contractual rights or because of the number of votes he holds, either alone or jointly with others with whom he has signed a shareholder’s agreement, to dismiss a manager, director or member of the supervisory body, or call for their dismissal;

(ii) The investor had exercised undue influence to cause that person to practice an act or to omit an act; and

(iii) Because of that act or omission that person is found liable towards the company or its partners.

- **What choices, if any, are available to the investor with regard to the restructuring of the business?**

The insolvency plan constitutes an alternative to full liquidation of the debtor’s property and it is characterized by the prevalence of the creditors’ will (by opting for full liquidation of the insolvent entity’s property under the terms of the Insolvency and Corporate Recovery Code (CIRE) or under the terms of the insolvency plan or opting for the continuation of the business and the restructuring of the company under the ownership of the debtor or of third parties under the terms of a plan).
An insolvency plan may be submitted by the insolvent, by the insolvency administrator, by the creditors, or by the person legally responsible for the insolvent entity’s debts. Thus, the investor may make some choices concerning the restructuring of the business if he is responsible for the insolvent entity’s debts, otherwise the investor will only be given a chance, under limited circumstances, to request the judge not to approve the insolvency plan that has been submitted by the insolvent, the insolvency administrator or by the creditors.

On May 20, 2012, a special revitalization process came into force. This process, inspired by the US Chapter Eleven (Bankruptcy Code), begins with a request presented by the debtor citing economic difficulties or merely an imminent insolvency situation. This is an urgent process, designed to establish negotiations between the debtor and the creditors so as to reach an agreement that will enable the economic recovery of the debtor.

The structure of this special revitalization process allows for a certain degree of latitude concerning that which is agreed to by the parties – debtor and creditors. However, the negotiation process shall be overseen by the provisory judicial administrator, designated by the competent court to declare the insolvency of the debtor.

Once a special revitalization process is established not only may no creditor judicially claim any debts against the debtor, but moreover any claims already presented by the creditors are suspended. The special revitalization process also suspends any insolvency proceeding already initiated against the creditor.

If the negotiations are concluded with the approval of a recovery plan for the debtor, this recovery plan is then submitted to a court for confirmation or rejection by a competent judge. The decision of the judge binds all creditors, including those who did not participate in the negotiations.

The closure of the negotiations without any agreement between the parties may lead the competent court to declare the debtor’s insolvency in case the debtor is in fact in an insolvency situation.

The special revitalization process may also be activated with the presentation by the debtor of an extrajudicial recovery agreement signed by a qualified majority of the creditors. The judge shall then confirm this agreement provided that all formal requirements are met.

XI. LABOR LEGISLATION, RELATION AND SUPPLY
A. Employer/Employee Relations

- **What laws govern employer/employee relations?**

  The Portuguese Constitution enshrines the right to employment and the principle that limits cases of dismissal and forbids the termination of employment agreements without just cause (Articles 53 and 58). Another important provision regarding workers’ rights is laid out in Article 59/1, as it determines employees’ fundamental rights, such as the rights to receive a fair/equitable salary, to a rest period, to annual paid leave and to safety and health protection.

  The Labour Code currently in force was approved by Law 7/2009, February 12 (CT), subsequently amended. There are other laws that regulate specific areas of labour relations such as: Decree-Law 261/91, July 25, that regulates the legal regime of pre-retirement; Decree-Law 89/2009 and Decree-Law 91/2009, both April 9, that regulate the legal regime of motherhood and fatherhood; Law 105/2009, September 14, that regulates the Labour Code in certain issues, such as working time, professional training, student employees, annual social employer’s information and absences due to illness; Law 98/2009, September 4, that regulates the regime of labour accidents and professional diseases; Law 102/2009, September 10, that sets forth the legal regime of safety and health at work; Decree-Law 260/2009, September 25, that sets forth the regime of temporary work, Law 101/2009, September 8, that sets forth the legal regime of working at home; Law 3/2012, January 10, that sets forth the regime of the extraordinary renovation of the fixed-term employment agreement and Law 11/2013, January 28, that sets forth the temporary regime related to the payment of Christmas and holiday allowances during the year 2013.

  - **Are there obligations to train employees?**

    Regarding the legal regime of employment contracts, Portuguese law states in Articles 130 to 134 of CT that employees are entitled to thirty five hours of professional training per year and employers shall provide it to a minimum of ten per cent of their employees, the others who do not receive the professional training are entitled to a credit of hours that they can use at their own initiative for the same goal.

    Additionally, should the employers want their employees to develop special abilities and qualifications, the employer shall provide a minimum of ten hours of professional training.

B. Employment Regulations
• **Must the investor hire nationals of the country?**

Although there is no obligation to hire nationals, there are certain formalities to admit foreign workers. There are two main kinds of foreign workers: the EEA (European Economic Area) workers (workers with EEA citizenship) and non-EEA workers. Adhering to the principles of the European Union, EEA workers may work in Portugal under the same circumstances as nationals. Notwithstanding concrete regimes foreseen in international bilateral conventions entered into between Portugal and other countries, the admission of non-EEA workers is described in Law 23/2007, July 4, amended by Law 29/2012, August 9, thus being subject to somewhat strict requirements, notably the need for a prior authorization from a Portuguese Embassy or Consul located at the origin country and from Portuguese Foreign and Borders Services (*Serviço de Estrangeiros e Fronteiras*/SEF).

• **Is there a minimum wage?**

The minimum monthly legal wage is currently EUR 485 according to Decree-Law no. 143/2010, December 31, except in Madeira (where it is EUR 494.70) and Azores (where it is EUR 509.25).

• **Is there a maximum number of hours an employee can work each week?**

The maximum working hours are 8 hours per day and 40 hours per week. The law sets forth that the 40 hours of work per week can be calculated on an average basis, provided employer and employees agree on that regime. Other legal regimes regarding adaptability of working time are allowed, provided their legal requirements are fulfilled.

• **Is there a minimum number of vacation and sick days to be given?**

Twenty two working days of vacation per year are mandatory, as stated in Article 238 of CT. There is neither a minimum nor a maximum limit of permissible absences due to illness, but a suspension of the employment contract takes place, when the employee is absent due to illness for a period of more than thirty continuous days. Additionally, employees are entitled to be absent from work for up to 30 days per year to assist children under 12 years old, up to 15 days per year to assist children above 12 years old, up to 15 days per year to assist other family members (for instance, husband or wife). Please note that other specific licenses may be granted (such as assistance to disabled children).
C. Hiring and Firing Requirements

- **Must the investor employ a minimum number of people?**
- **Must the investor employ a minimum number of nationals?**
- **Must nationals hold certain positions in the company?**

In Portugal there are no minimum requirements as to the number of employees the employer must hire. There is no obligation whatsoever in the private sector to hire or retain national citizens in any position in the company.

- **Are there rules to follow in hiring/dismissing personnel (e.g. notice)?**

Under Portuguese law the employer may only terminate an employment agreement as follows:

**During the probation period**

Termination of a labour agreement by either of the parties during the probation period does not require the allegation of grounds and no indemnity is due. The maximum terms for the probation period are foreseen by law (periods which vary between 15 and 240 days, depending on the type of employee’s activity and the nature of the agreement, i.e., whether it is a permanent or a labour agreement with term). A prior notice is only required when the probation period lasts longer than 60 days.

**Dismissal based on disciplinary grounds**

The dismissal for disciplinary reasons is only lawful for a very limited range of reasons, mainly if the employee is guilty of committing a serious offense, which makes it impossible to maintain the employment relationship (just cause).

The intentional behaviour of the employee that, due to its seriousness and consequences, makes it immediately and practically impossible to maintain the labour relationship constitutes just cause for dismissal.

The following behaviours of the employee are examples of just cause under Portuguese law:

(i) Illegitimate disobedience of lawful orders given by superiors;
(ii) Breach of rights and guarantees of other employer’s employees;
(iii) Repeatedly provoking conflicts with other employees;
(iv) Repeated disinterest in performing, with the required level of care, the duties inherent to the
position or work post entrusted to the employee;

(v) Serious patrimonial damages caused to the company;

(vi) False statements regarding the justification of absences;

(vii) Unjustified absences from work which causes direct damage or serious risks to the company or, regardless of any damage or risk, when the number of unjustified absences in any calendar year reaches five successive or ten interrupted absences;

(viii) Intentional non-compliance with hygiene and safety rules at work;

(ix) Physical violence, insults or other offences punishable by law, committed at the work place in relation to other employees, members of corporate bodies or the individual employer not belonging to such bodies or his delegates or representatives;

(x) Kidnapping and in general all crimes against freedom of those persons referred to above;

(xi) Breach or refusal to comply with court or administrative decisions and acts;

(xii) Unusual reduction of productivity.

The employer may only dismiss the employee following a disciplinary proceeding, which is subject to very strict formalities and shall occur (i) within 60 days after the employer becomes aware of the infraction and (ii) within 1 year since the infraction itself (unless the facts also constitute a crime, in which case the applicable statute of limitations period is the one foreseen in criminal law).

Should the court find the dismissal unlawful, the employee is entitled to the salary due between the date of dismissal and the date of the court’s decision, as well as, at his choice, either: (i) reinstatement to the company or (ii) an indemnity equal to the amount fixed by the court between fifteen and forty five days of base remuneration per year of service or fraction thereof, with a minimum of three months of remuneration.

Pregnant, puerperal or breastfeeding employees and employees in parental allowance cannot be dismissed without the employer first consulting the Commission for Equality in Work and Employment (Comissão para a Igualdade no Trabalho e no Emprego). The Commission has 30 days to issue a written opinion on the dismissal. Should the Commission’s opinion be contrary to the dismissal, the employer must file a lawsuit in court in order to obtain the court’s authorization to dismiss.

If the court finds the dismissal unlawful, the employee is entitled to the salary due between the date of dismissal and the date of the court’s decision, as well as, at his choice, either: (i)
reinstatement to the company or (ii) an indemnity equal to the amount fixed by the court between thirty and sixty days of base remuneration per year of service or fraction thereof, with a minimum of six months of remuneration.

The collective bargaining agreement applicable to the company may contain rules that change the regime above described in a manner more favourable to the employee, namely concerning the amount of the indemnity due in case of unlawful dismissal.

**Collective dismissal**

The closing down of a company or of one or more of its departments and the reduction of personnel caused by market, structural or technological motives provides grounds for collective dismissal, as long as those grounds affect at least 2 or 5 employees, depending on whether the company has less than 50 employees or more than that.

By market motives Portuguese law means the reduction of the company’s activity caused by a decrease in demand for its goods or services or the impossibility, whether legal or practical, of placing those goods or services in the market. An economic-financial imbalance, a change of activity, the restructuring of the business organization and the replacement of the company’s main products may constitute structural motives. Technological motives relate to changes in production techniques, automation of production tools, computerization of services or automation of means of communication.

The termination of the labour agreement may only be decided, provided a previous formal procedure is followed, where the affected employees, their representative bodies or governmental entities are mandatorily informed and consulted. The final dismissal decision must respect a prior notice that goes out within 15 to 75 days, depending on the number of years of service of each employee.

Again the proposed dismissal of pregnant, puerperal or breastfeeding employees and employees in parental allowance is not allowed without previous consult of the Commission for Equality in Work and Employment (Comissão para a Igualdade no Trabalho e no Emprego). The Commission has 30 days to issue a written opinion on the dismissal and should its opinion be contrary to the dismissal, the employer must file a lawsuit in court in order to obtain the court’s confirmation of the existence of grounds and authorization to dismiss.
The employees subject to dismissal are entitled to compensation defined by law. In the case of an employment agreement entered into after November 1, 2011, the compensation is equal to 20 days of base salary and seniority premiums per each year of seniority. The daily amount of the base salary shall be equivalent to the relevant monthly amount divided by 30 and the relevant monthly amount cannot exceed 20 times the national minimum wage. Finally, the global compensation resulting thereof cannot exceed 12 times the base monthly salary plus seniority premiums or 240 times the national minimum wage.

Differently, in case of employment agreements entered into before November 1, 2011, global compensation results from two different regimes: (i) prior to October 31, 2012, compensation is calculated based upon the previous legal regime (one month of base salary and seniority premiums per year of service or fraction thereof, with a minimum limit of three months and without maximum limit); (ii) as from November 1, 2012, onwards, if the compensation resulting from (i) exceeds the limit of 12 times the base monthly salary plus seniority premiums or 240 times the national minimum wage, subsequent seniority does not entitle the employee to any increased compensation; if this limit is not exceeded, subsequent seniority entitles the employee to increased compensation at a rate of 20 days of base salary and seniority premiums per each year of seniority (calculated according to the rule applicable to employees hired after November 1, 2011) until that limit is reached. Clauses of collective bargaining agreements executed before August 1, 2012, which foresee severance payments higher than those mentioned above are considered null and void.

The compensation must be paid to each employee until the end of the prior notice.

Should the motives which grounded the decision to dismiss be non-existent or should the employer fail to comply with the above-mentioned requirements as to consultation, information and payment of the legal compensation, the termination of the labour agreement is unlawful and the employee is entitled to the salary lost between the date of dismissal and the date of the court’s decision and may choose between: (i) reinstatement in the company or (ii) an indemnity equal to one month of base remuneration per year of service or fraction thereof, with a minimum of three months of remuneration.

Loss of labour position due to structural, technological or economic or market motives related to the company
This regime is applicable only when the company lacks grounds to proceed with a collective dismissal due to the number of employees involved (for example, the company has more than 50 employees and the closing of the section affects only 3 employees).

If economic, technological or structural motives (as defined above) justify the loss, the employer may extinguish one labour position. When in the section or equivalent unit there is more than one work position with identical function, the employer may define the appropriate and non-discriminatory criteria to select the employee to be made redundant.

The need to extinguish the labour position and the consequent termination of the labour agreement must be provided in writing to each employee affected, as well as to the workers’ council, if applicable. If the employee is a trade union member, the notification must also be sent to the respective trade union. A description of the motives invoked for the extinction of the labour position, identifying the section or the equivalent unit to which they refer, an indication of the affected employees and the respective professional categories, as well as an indication of the criteria to select the employees to dismiss must be attached to the notice.

After a period of information and consultation, the termination of the labour agreement must be provided in writing to the relevant employee and to the workers council or, if there is no such council, to the company’s union or inter-union representative of the affected worker. The final decision of the employer must expressly contain: (i) the motive for dismissal; (ii) the confirmation of the cumulative occurrence of all legal requirements that allow the termination of the employment agreement; (iii) evidence of the application of the criteria to select the work position to be extinguished, in case of opposition; (iv) amount of compensation that will be paid, as well as the place, date and manner of its payment; and (v) date of termination of the agreement.

As in a collective dismissal, in this case the final decision must also respect a prior notice that is given within 15 to 75 days, depending on the number of years of service of each employee.

The dismissal of pregnant, puerperal or breastfeeding employees, the compensation to which the employee is legally entitled as a consequence of the loss of his job and the consequences of an unlawful termination are similar to the ones described above under the collective dismissal regime.

**Dismissal based on the employee's failure to adapt**

The employer may terminate the labour agreement if: (i) the employee's productivity and quality decreases continuously; (ii) repeated technical problems in resources affecting the labour
position; (iii) risks to the safety and health of the employee, other employees or third persons; or (iv) the employee developing management functions or functions of technical complexity has failed to comply with objectives previously agreed in writing, provided that it implies the impossibility to maintain the labour relationship.

The grounds identified above depend on the gathering of several requirements, namely: (i) the introduction of new production procedures; (ii) technologies or equipment within the labour position; (iii) the employee having been given adequate professional training and time to adapt to the new technologies.

The termination of the labour agreement is decided following a formal procedure similar to the one described under the extinction of the labour position regime.

As in above described regimes, the final decision must also respect a prior notice that goes out within 15 to 75 days, depending on the number of years of service of each employee.

The dismissal of pregnant, puerperal or breastfeeding employees, the compensation to which the employee is legally entitled as a consequence of the loss of his job and the consequences of an unlawful termination are similar to the ones described above under the collective dismissal regime.

**Termination of special services (comissão de serviço)**

Labour agreements may be entered into under the special service regime should the functions which the employee carries out require a special trust, such as administration functions, management functions directly dependent on the administration or on the general management or secretaries of employees who carry out these functions.

Following a prior notice of thirty or sixty days (depending on the special service regime lasting up to two years or more), the employer may freely terminate such services. Should the employee have been specifically hired under this special service regime or should the termination of the special service imply terminating the labour agreement (since the labour agreement may continue, regardless of the special service), the employee is entitled to compensation calculated on the same basis as the collective dismissal one.

- **Does the investor have a continuing obligation towards dismissed employees?**

The employer has no legal obligation towards dismissed employees, as long as the termination was lawfully conducted.
D. Labour Availability

- Is adequate skilled or unskilled labour available for the anticipated business?

The Portuguese National Statistics Institute (INE) published the following table:

Active Population in Portugal by sex, age group and highest completed level of education

Data reference period: 4th quarter 2012

Unit: thousand

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E. Labour Permits

- Are labour permits required?
- If so, how are they obtained?
• How long does the process take?

• What fees are involved?

Portugal is a member of the European Union, and as such, part of the European market. In principle, there are no special requirements, such as labour permits, to work in Portugal. However, certain business areas do require those permits, notably: transportation (land, sea and air), restaurants and quarries. The time required to attain a permit varies and fees may be payable.

In regards to employees, certain functions require specific academic or professional qualifications (doctors, lawyers, etc.), the possession of a professional license (for instance, journalists) or a certificate of the individual’s ability to operate certain equipment (for example, the driver of vehicles).

Permits, certificates and professional licenses are granted by the respective professional associations (for example, the Bar Association), governmental entities or trade unions. The time required to get the permits varies and fees may be payable.

F. Safety Standards

• Are there safety codes that must be followed?

Portuguese labour safety law focuses on three main aspects: the prevention, the reparation of damages, and the punishment of the offender. There are two main statutes regarding safety: Law 102/2009, September 10, containing the legal regime on hygiene, health and safety at work, and the Labour Accidents and Professional Diseases Law approved by Law 98/2009, September 4. The Criminal Code provides for the punishment of employers who violate workers safety statutes and regulations in Article 152/3 and 4. For certain activities, as in construction, there are laws and regulations imposing specific obligations on the employers.

There is a general obligation to ensure, within the execution of services, the prevention of professional risks, as well as to provide medical services, both internal and/or external to the company. Given that employers benefit from the workers’ labour, the law’s perspective was to make employers liable. Failure to comply with those statues and regulations may lead to serious consequences, such as heavy fines and even prison. The law encourages employers to develop internal safety rules besides those required by law.
Employers are responsible for accidents that take place during the working period and at the working place, as well as for diseases from which the employee suffers because of the exercise of his professional activity, and even when the accident or the illness is not caused by the employer. The employer’s responsibility is predominately linked to the obligation to provide initial aid to the employee, to indemnify the employee for damages suffered, and to provide him with a labour position suitable to his condition.

G. Unions

- Are unions recognized?
- What are the unions in the investor's business?
- What are these unions' political affiliations, if any?

Unions are recognized and regulated under Portuguese law. The respective regime is mostly ruled by the Portuguese Republic Constitution (Articles 55 and 56) and by the Labour Code (Articles 404 to 439).

Portuguese law recognizes each employee’s right to affiliation, which means he may become a member and leave any trade union representing his professional activity, as well as incorporate a different trade union with other employees.

Portuguese trade unions cover almost all existing professional activities: in theory, therefore, all employees can be unionized. Unionization rates are quite low.

There are two main associations of trade unions in Portugal: CGTP and UGT. Those associations, although formally independent, are connected to left wing political parties, mainly the socialist (PS) and the communist (PCP) party.

- Is there an obligation on the part of the employer to organize unions?

Employers are not obliged to organize unions. On the contrary, employers are legally prevented from interfering with unions’ activity, even with the purpose of promoting, supporting or financing trade unions.

- Are there mandatory collective bargaining agreements for the business involved?

There are several collective bargaining agreements ruling all different kinds of activities, and it is most likely that a new investor comes to the conclusion that his area of activity is already regulated
by such an agreement, either because it was negotiated by the relevant employer association, or
because it has become applicable by virtue of a mandatory governmental decision.

XII. TAX ON CORPORATIONS

A. Allowances

• What are the major allowances (e.g. capital cost depreciation)?

All fixed assets, except land, can be depreciated or amortized for tax purposes.

Methods

As a general rule, fixed assets are depreciated under the straight-line method. However, the
taxpayer may opt for application of the declining-balance method in respect of new tangible fixed
assets - other than those that were already used when acquired, buildings, private passenger cars
(unless they are used for public transportation or in a rental business), office furniture, uniforms, and
comparable effects.

Except for buildings and private passenger cars, depreciation must be effected by classes of
items of a similar nature with a similar level of utilization.

The unit cost below which assets may automatically be written off in the year of acquisition or
production is currently EUR 1,000.

Base

The base for depreciation is the historic cost (of acquisition or production), the revaluated net
value (as determined by the application of official revaluation coefficients) or the market value on
the date of the opening of the book-keeping in cases where the historic cost is unknown.

Rates

Under the straight-line method the maximum depreciation is calculated by applying the
specific depreciation rates set out below, or the general rates (for assets used in activities for which
no specific depreciation rates are set out).

General maximum rates of depreciation are, *inter alia*.

| (i) | office buildings | 2% |
| (ii) | industrial buildings | 5% |
| (iii) | light construction (fibreglass, wood, zinc) | 10% |
| (iv) | electronic equipment | 20% |
(v) computers and compressors 33.33%, 25%
(vi) ordinary tools and fittings 25%
(vii) engines and heavy machine tools 12.5%
(viii) portable machine tools 20%
(ix) motor vehicles 12.5%, 25%, 14.28%, 20%, 25%
(x) software 33.33%

Under the declining-balance method, annual depreciation is calculated by applying the rates applicable under the straight-line method, increased by:

(i) 50% if the useful life is less than 5 years
(ii) 100% if the useful life is 5-6 years
(iii) 150% if the useful life is more than 6 years

• What are the major deductible items?

The general rule on business expenses is that a deduction is allowed for all expenses necessary for the production of taxable income or for the maintenance of productive assets.

Items which are demonstrably indispensable for the creation of profits or gains or for the maintenance of a productive source are considered to be tax allowable expenses:

(i) costs of production or purchase of goods or services on revenue account, such as materials, labour, energy and other manufacturing, conservation and repair costs;
(ii) costs of distribution and sales including transportation costs, advertising and other delivery costs of merchandise;
(iii) financial costs such as loan interest, discounts given, brokers' fees, transfers, differences in exchange rates, costs of credit operations, debt collection and costs of issuing shares, bonds and other securities and reimbursement premiums;
(iv) administrative costs such as remuneration, including the allocations under profit sharing, daily subsistence allowances, material consumption, transport and communications, rents, litigation, insurance, contributions to funds for retirement savings, contributions for pension funds and any supplementary social security, as well as spending on employment termination benefits and other post-employment benefits or long-term employees;
(v) cost of analysis, rationalization, research and consultancy;
(vi) taxes and social security contributions;
(vii) depreciation and amortization;
(viii) adjustments in inventories, impairment losses and provisions;
(ix) expenses resultant from the application of the fair value criteria to financial instruments and consumable biological assets other than multiannual forestry holdings;
(x) capital losses;
(xi) indemnities paid if the risk is not insurable.

- **What are the major expenses that are excluded from deductibility?**

The following items are disallowed as deductible expenses or losses for corporate income tax purposes:

(i) the corporate income tax itself and any other taxes directly or indirectly imposed on profits;
(ii) amounts reflected in documents issued expenses substantiated in documents issued by taxpayers bearing a non-existent or invalid taxpayer identification number or by taxpayers whose cessation of activity has been declared;
(iii) any taxes and other expenses imposed on third parties that the company is not legally authorized to incur;
(iv) fines, penalties and other expenses of a non-contractual character imposed for any corporate taxpayer's infringements;
(v) compensations received in respect of the occurrence of insurable events;
(vi) per diem expense allowances and payments for travel of an employee in a car at the employer's service, not invoiced to customers, regardless of how they were accounted for, where the employer does not possess, for each payment made, a schedule whereby it is possible to control the journeys to which those expenses are related, showing the respective cases, the duration of stay, purpose, and in case of travel in the worker's own vehicle, the identification of the vehicle and its owner, as well as the distance, except to the extent that they have been subjected to taxation under personal income tax of the respective beneficiary;
(vii) expenses not duly documented, which are not only non-deductible, but are separately subject to a 50% surtax. The 50% charge is increased to 70% where such expenses are
incurred by either totally or partially exempt corporate taxpayers or by entities not
carrying on a commercial, industrial or agricultural activity;
(viii) amounts due for rental of self-drive passenger or mixed use vehicles to the extent of the
amount of depreciation of such vehicles that would not be deductible;
(ix) fuel costs, to the extent that the taxpayer does not prove that they relate to codes forming
part of his fixed assets, are used under lease agreements and that the amount spent does
not exceed normal consumption levels;
(x) interest and other means of payment of shareholders’ loans and loans made by members
to the company to the extent that they exceed an amount corresponding to the reference
Euribor twelve month on the day of creation of the debts or another rate defined by
order of the Minister of Finance that uses that rate as a reference;
(xi) capital losses related to recreational boats, tourism airplanes and light passenger vehicles
or vehicles for the combined transport of passengers and goods that are not allocated to
public transportation service nor meant for rental within the scope of the taxpayer’s
activity, except for the tax depreciable amount not yet accepted as a deductible tax
expense;
(xii) expenses related to profit sharing by members of the governing bodies and the company
workers, whenever those amounts are not paid or made available to the respective
beneficiaries by the end of the following tax period;
(xiii) expenses related to profit sharing when the beneficiaries own, directly or indirectly, at
least, one per cent of the company’s share capital in the amount exceeding twice the
value of the monthly salary earned in the taxation period to which the profits in which
they participate relate.

B. Calculation of Taxes

• How is the taxable base determined?

General concept of taxable income

Resident companies and foreign permanent establishments in Portugal are generally subject to
corporate income tax (IRC) on their total income. Non-resident companies without a permanent
establishment are generally liable to corporate income tax only on their Portuguese-source income, including capital gains.

The corporate income tax code (CIRC) classifies taxable income into four categories:

(i) the profits of taxable entities which carry on an activity of a commercial, industrial or agricultural character;
(ii) the global revenues of resident entities not carrying on an activity of a commercial, industrial or agricultural character;
(iii) the profits attributable to the Portuguese permanent establishment of non-resident entities;
(iv) revenues of various types, defined for purposes of the IRS (personal income tax), received by non-resident entities not liable to IRS.

**Computation of taxable income**

The taxable base is made up of the net profit for the year plus certain changes in equity not included therein (essentially premiums on bond issues), less allowable prior year losses, and tax incentives. Profit is defined in balance sheet terms as representing the difference in net equity at the beginning and end of the accounting period, adjusted in accordance with the CIRC rules.

The determination of taxable profits is effected, whenever possible, under a *direct method* of computation based on the corporate taxpayer's return and accounting records; and, if this is not possible, under an indirect method of computation based on circumstantial evidence.

Under the direct method, net taxable profit is the amount resulting from computing the net total turnover for the year and certain changes in equity not included therein, determined on the basis of the taxpayer's accounting records.

The determination of taxable profits under an indirect method is carried out by the district director of taxes and is based on all the information available to the tax administration and, more specifically:

(i) average gross or net profit margins;
(ii) average rates of return from investments;
(iii) technical ratios of consumption and utilization of raw materials and other direct costs;
(iv) information and reports from third parties relating to any taxes.
The indirect method may be applied only after it has been established that as a result of certain findings a direct and accurate calculation of the tax is not possible.

**Foreign-source income of resident companies**

Resident entities are taxable on all income accruing to them, whether sourced in Portugal or abroad.

**Exclusions from the taxable base**

The following items are excluded from the taxable base:

(i) contributions by shareholders and participants to the capital of a company, including the amount of premiums received on corporate shares, as well as any contributions to capital for purposes of offsetting losses made by shareholders or participants;

(ii) unrealised capital gains, even if they are shown in the balance sheet.

C. **Capital Gains**

- What are the federal or national tax rates on capital gains?

**General**

Capital gains realized by resident companies, including Portuguese permanent establishments of non-resident companies, are generally included in taxable profits and are taxed at the normal rate. Capital gains include both *voluntary* capital gains, i.e., gains realized from the sale or exchange of fixed assets or the appropriation of a company’s fixed assets for any purpose unrelated to the operation of the business, and *involuntary* capital gains, i.e., gains realized on compensation for expropriation and on indemnification for a disaster or theft.

**Computation of capital gains**

The gain is the amount by which the proceeds from the alienation exceed the cost of acquisition. The acquisition cost of fixed assets (including shares and comparable interest in companies and real estate, but excluding other financial investments), is deducted from the depreciation and amortizations made for tax purposes and, if alienated after an ownership period of more than 2 years, may be adjusted for inflation in accordance with the indexation coefficient for the year of acquisition.

**Partial exemption of tax on capital gains**
Capital gains from tangible fixed assets held for more than one year are exempt of tax of 50% if the total consideration received is reinvested in the previous tax year in the year in which the capital gains were obtained within 2 years of such disposal in the purchase, manufacture or construction of other tangible fixed assets, biological assets (which not consumable) or investment properties provided that they are not purchased from entities with whom a special relationship exists (relações especiais). If only part of the consideration is reinvested, then only the corresponding part of the gain qualifies for exemption. Any unrecognised gain is deducted from the acquisition cost of the asset, thereby effectively reducing depreciation allowances and increasing capital gains on a future disposal.

The general corporate income tax rate for resident companies and Portuguese permanent establishments of non-resident companies is 25 per cent.

Rates

The general corporate income tax rate for resident companies and Portuguese permanent establishments of non-resident companies, which is applicable to capital gains, is 25 per cent.

- What are the regional or state taxes on capital gains?
  
  N/A

- What are the municipal or local taxes on capital gains?
  
  N/A

D. Filing and Payment Requirements

- When must the corporation file its tax return, if any?

  Corporate taxpayers are required to file over the internet a final annual tax return for a given year until the last day of May of the following year, whether a working day or not. When the financial and tax year do not coincide with the calendar year, the company is required to file the final return up to the end of the fifth month after the date of the end of such tax period.

  Non-resident entities maintaining a permanent establishment in Portugal are obliged to file a tax return in the same way as resident entities.

  Non-resident entities without a permanent establishment in Portugal or with income not attributable to a Portuguese permanent establishment, must also file the mentioned tax return whenever their income of Portuguese source was not subject to final withholding tax. The tax return
must be filed by the end of May of each year regarding real estate income not derived from its transfer or within 30 days from the date in which the taxpayers ceased to receive such real estate income. In what concerns the income derived from the transfer of real estate, the tax return must be filed within 30 days from the date of disposal. Finally, regarding accretions to net worth arising from acquisitions free of charge, the tax return must be filed within 30 days from the date of acquisition.

Corporate taxpayers are required to file an annual statement of accounting and tax information (Informação Empresarial Simplificada) that must be submitted over the internet by July 15 each year in accordance with the rules and accompanied by the annexes mentioned for this purposes in the relevant form.

- **When must the corporation pay its taxes?**

  The tax collection procedure has two stages, namely: (i) the voluntary payment stage which expires on the last day of the period set for the submission of the annual tax return, i.e., on the last day of May each year and (ii) the enforced collection stage. If the taxpayer fails to pay within the voluntary period, the Tax Authorities issues a debt-claim certification on the grounds of which the tax administration can proceed against the taxpayer's property.

  Advance payments on account of corporate income tax (IRC) for the current year are required to be made by resident corporate taxpayers in July, September and December 15 of that year. For companies that have elected a different tax period, the payments must be made in the 7th and 9th months and the 15th day of the 12th month of their reporting period. The advance payments should equal 80% of the amount of tax assessed in the preceding year, when their turnover for the preceding year is equal to or less than EUR 500,000, and 95% of that amount when the turnover for the preceding year is more than EUR 500,000, divided in three equal instalments and rounded up to the nearest euro. The remaining tax liability must be paid upon filing the annual tax return by the end of May of the following year (or by the end of the 5th month after the date of closing of the reporting period for foreign permanent establishments which have opted for a different tax reporting scheme). Any excess payment must be refunded within 3 months of the mandatory filing date, unless the corporate taxpayer elects to set the refundable amount against future IRC liabilities.

- **Are taxes paid in instalments or annually?**

  As a rule, corporate income tax (IRC) is paid annually. Notwithstanding, the taxpayers shall be subject to a special payment on account to be made during the month of March, or in two
instalments in March and October of the year to which it relates or, if they adopt a tax year that does not coincide with the calendar year in the third and tenth month of the tax period concerned. The amount of the special payment on account shall be equal to 1% of the turnover of the previous tax year with a minimum of EUR 1,000, and where higher, an amount equal to this limit plus 20% of the surplus up to a maximum of EUR 70,000.

If authorization from the competent tax authorities is obtained, the taxpayer may pay the IRC liability in a maximum of 36 monthly instalments, commencing after the prescribed deadline for voluntary compliance but prior to any commencement of proceedings for forceful collection. In such a case, the taxpayer must produce adequate payment of the total tax liability plus the applicable interest on late payment. Payment of the IRC liability may be effected in Euros by cash, cheque, postal money order or interbank transfer. The tax administration must send a payment receipt to the taxpayer.

E. Miscellaneous Taxes Due

- Is there a tax on capital?
  
  Please refer to sections B and C above.

- Is there a business license tax?
  
  No.

- Is there an apprenticeship tax?
  
  No.

- Is there a training tax?
  
  No.

- Are there other taxes?

  Municipal Tax on the Transfer of Immovable Property (IMT)
  
  A municipal tax on the transfer of immovable property is levied on the transfer of real estate located in Portugal. The tax is payable by the acquirer on the higher price paid and the taxable value of the property for municipal tax on immovable property (IMI) purposes.

  IMT tax rates for corporate taxpayers are:

  (i) 6.5 % for the transfer of urban property;
(ii) 5 % for rural property;
(iii) 10 % for urban or rural property if the purchaser is a resident of a listed tax haven.

The acquisitions of immovable property by real estate trading companies, investment funds, and pension funds are tax exempt, except if the acquirer is resident in a listed tax haven.

**Municipal Tax on Immovable Property (IMI)**

A municipal tax on immovable property (IMI) is annually levied on immovable property located within each municipality. The tax is levied on the registration value of the buildings, flats, plots of land, and rural land.

IMI tax rates are:

(i) 0.3 to 0.5 % for urban buildings registered in the cadastre and/or owned from December 1, 2003;
(ii) 0.5 to 0.8 % for urban buildings subject to the transitional scheme of evaluation;
(iii) 0.8 % for rural property;
(iv) 7.5 % for urban or rural property held by any resident of a listed tax haven.

**Stamp Duty**

Stamp duties are levied on all acts, deeds, documents, securities, books, papers and other events occurring in Portugal listed in the Stamp Duty Code, and not subject to VAT including gratuitous acquisitions of real estate located in Portugal.

- **What are the filing and payment requirements?**

**Municipal Tax on the Transfer of Immovable Property (IMT)**

The taxpayer must file an official tax return in any local tax office or on the internet. The IMT assessment will then be prepared by the tax authorities and notified to the taxpayers, who, as a rule, must pay the tax due on the same date of the assessment or on the following working day. IMT is assessed and paid before the transfer of immovable property.

**Municipal Tax on Immovable Property (IMI)**

IMI assessments are prepared by the Portuguese Tax Authorities and notified to the person registered as the owner or user of any form of immovable property on December 31, each year (the person liable to taxation). IMI is paid in two instalments in April and September each year.

**Stamp Duty**

Stamp duties are paid by filing an official model charging document.
F. Registration Duties

- Are there registration duties due upon the incorporation of a company?
  Yes. Please refer to chapter VII, section C (What costs and fees are involved?) above.

- Are there registration duties due upon an increase in capital?
  Yes. Each increase of the company's share capital is subject to the payment of registration duty in the amount of EUR 225 or EUR 191.25 if the registration of the increase is requested online on http://www.portaldempresa.pt/CVE/pt/EOL/.

- Are there registration duties due upon the transfer of the company's shares?
  Yes. The transfer of an LDA's shares (quotas) is subject to the payment of registration duty in the amount of EUR 100 or EUR 85 if requested on line at http://www.portaldempresa.pt/CVE/pt/EOL/.

- Are there registration duties due upon a transfer of corporate assets?
  The transfer of corporate assets, e.g., immovable property, motor vehicles, boats, and airplanes is subject to the payment of registration duties, which vary according to the assets transferred.

- Are there any other registration duties due?
  Yes. The mergers and demergers, the dissolution of a company, the appointment of management bodies, statutory auditors, insolvency managers and, in general terms, all changes in a corporation’s by-laws, as well as all other facts subject to registration are subject to the payment of registration duty, as foreseen in the Notary and Register Fees Regulation approved by Decree-Law no. 322-A/2001, December 14.

G. Sales Tax or other Turnover Tax

- What is the system of sales tax (e.g. V.A.T., cumulative)?
  Portugal adopted a value added tax system by Decree-Law no 394-B/84, December 26, which approved the VAT Code (Código do Imposto sobre o Valor Acrescentado) to fulfil a condition of entry into the European Union. Pursuant to Law no. 2/89, February 17, Decree-Law no. 195/89, June 12, introduced amendments to the VAT Code in order to bring domestic legislation in line with both
the Sixth EC Directive on VAT (Counsel Directive 77/388/EEC, May 17 and the new codes of the personal income tax (IRS Code) and corporate income tax (IRC Code).

VAT also applies to the importation of goods by any person, although a taxable person may be able to treat such VAT as an input tax and offset it against the output tax payable on any subsequent supply of goods.

- **Is input tax creditable against output tax?**

Yes. VAT is an indirect tax on the consumption of goods and services and is normally borne by the final consumer. This, in general, is accomplished by imposing a tax (referred to as "output tax") on each stage of production, wholesaling, retailing, etc., but allowing the supplier to offset, against the output tax for which he must account, an amount equal to the tax (referred to as "input tax") which he has paid on his own acquisitions of goods and service supplies.

- **What are the tax rates?**

VAT is levied at a standard rate of 23%. In addition, an intermediate rate of 13% and a reduced rate of 6% are applicable to a range of goods and services. In the Azores, the rates are levied at 16%, 9% and 4%, respectively, and in Madeira the rates are levied at 22%, 12% and 5% respectively, on the same supplies.

- **What are the filing and payment requirements?**

VAT taxable persons must file a tax return over the internet and pay the VAT due:

(i) By the tenth day of the second month following the one in which the taxable operations are related, when the taxable person’s turnover of the previous year is superior to EUR 650,000;

(ii) By the fifteenth day of the second month following the quarter in which the taxable operations are related, when the taxable person’s turnover of the previous year does not exceed EUR 650,000.

**H. Social Security and Welfare System Contributions**

- **Are social security contributions due?**

Employers are required to contribute an amount equal to 23.75% of an employee’s monthly gross salary. This contribution has no ceiling.
Employers are also required to make contributions for the members of their corporate boards at the rate of 20.3% or 23.75% in the case of corporate managers. The contribution base is subject to a ceiling of EUR 5,030.64.

- Are retirement or pension contributions due?
  No.

- Are unemployment insurance contributions due?
  No.

- What are the filing and payment requirements for any such contribution?
  Employers are required to register for social security purposes by filing an official form in which they provide the social security services with information about the company such as identification data, number of establishments of the company, number of employees. Whenever employees are hired or let go, the employer has the legal obligation to communicate such facts to the social security services as well by filing and delivering an official form.

  Since social security contributions (both the contributions due by the employers and the contributions due by the employees) are calculated on the employee’s gross salary, the total amount due is withheld by the employer before the salary is paid. In Portugal salaries are normally paid on a monthly basis in order to pay social security services. Payments can be made in the banks that have a protocol with social security services for that purpose, in any treasury of social security services or by mail, sent to the competent social security services.

I. Special Tax Schemes

- Are there particular tax consequences of doing business in the country?
  No.

J. Tax on Profits

- What are the federal or national income tax rates on profits?
  In what concerns the taxes levied on profits, companies are liable for corporate income tax (IRC) at the general rate of 25%. Companies are also subject to an additional surcharge by the state
(derrama estadual) of 3% on taxable profits between EUR 1,500,000 and EUR 7,500,000 and 5% on taxable profits over EUR 7,500,000.

- **What are the regional or state tax rates on profits?**
  N/A

- **What are the municipal or local tax rates on profits?**
  Most municipalities subject companies to a municipal surcharge (derrama) of 1.5% on all taxable profits subject to and not exempt from IRC.

**K. Tax Treaties**

- **Are there any applicable tax treaties?**
  Yes. Portugal has concluded several bilateral tax treaties for the avoidance of international double taxation. Currently, the Portuguese network of double taxation treaties in force includes the following countries: Algeria, Austria, Barbados, Belgium, Brazil, Bulgaria, Canada, Cape Verde, Chile, China, Colombia, Cuba, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Guinea Bissau, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Kuwait, Latvia, Lithuania, Luxembourg, Macao, Malta, Mexico, Moldova, Morocco, Mozambique, the Netherlands, Norway, Pakistan, Panama, Poland, Qatar, Romania, Russia, San Marino, Singapore, Slovak Republic, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Timor-Leste, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Venezuela.

- **Are there any rules against treaty-shopping?**
  Yes. Many of the tax treaties in which Portugal has entered into restrict the application of the treaty in what concerns dividends, interest, and royalty payments to those residents of both parties who are, simultaneously, the beneficial owner of the payments. This rule allows Portugal to exclude from the scope of the tax treaties any nominees, agents and conduit companies, intentionally placed in the territory of one of the parties to benefit from the tax treaty. Furthermore, Portugal has accepted the introduction of LOB clauses in some of its treaties.

**L. Territoriality Rules**
Where is the corporation subject to tax?

Since Portugal is not a Federation, corporations are always subject to corporate income tax (IRC) at a national level, wherever they are placed within the Portuguese territory.

Is the corporation subject to tax on its worldwide income?

Resident corporations, as well as foreign permanent establishments in Portugal are generally subject to tax on their worldwide income while non-resident corporations without a permanent establishment are liable to tax on their Portuguese-source income.

A company is generally deemed resident in Portugal if it has its legal seat or place of management in Portuguese territory.

M. Treatment of Tax Losses

How is corporate tax losses treated?

Ordinary losses

Operating losses incurred by normal corporate taxpayers for any financial year may be set off against taxable profits, if any arise, for one or more of the 5 subsequent financial years. Operating losses of a company subject to fiscal transparency (other than ACEs and EEIGs) may only be set off against that company's taxable profits within the permitted period. Loss carry-backs are not allowed.

Capital losses

Capital losses are defined as losses from the sale or other disposal of business property. The IRC Code makes no distinction between ordinary losses and capital losses. Therefore, capital losses are deductible in computing taxable income for purposes of corporate income tax.

N. Wealth Tax

Is there an applicable wealth tax?

No.

O. Withholding Taxes

What are the rates of withholding tax on dividends?
Domestic dividends are fully exempt in the hands of a resident corporate shareholder other than an entity subject to fiscal transparency if it has directly held either at least 10% of the distributing company’s capital or any capital percentage valued at EUR 20 million or more for an uninterrupted period of at least one year prior to the distribution (participation exemption). Distributions made before the expiry of the one-year holding period qualify for the relief, provided that the holding period requirement is subsequently met. The same relief applies, regardless of the percentage held and the holding period, where the recipient of the dividends is a holding company (SGPS), venture capital company (SCR), a regional development company (SDR), a corporate stockbroker (SFC) or an investment company (SIM).

Where the dividends do not qualify for the participation exemption, only 50% of the domestic dividends are included in the shareholder’s taxable income.

The general withholding tax rate for dividends is 25% when paid to resident corporations (in such case, the tax withheld is an advance levy of corporate income tax), and also 25% when paid to non-resident corporations.

An exemption from withholding tax may apply in respect of dividends qualifying for the participation exemption, dividends paid within a group of companies taxed under the group treatment regime, provided that the dividends relate to profits derived in a tax period in which the regime applies and stock dividends representing capitalized profits and reserves.

- **What are the rates of withholding tax on royalties?**

The general withholding tax rate for royalties – which include fees for technical assistance, know-how and leasing of agricultural, commercial, industrial or scientific equipment – is 25% whether paid to resident corporations (in such case, the tax withheld is an advance levy of corporate income tax) or to non-resident corporations.

Royalties may be exempt from withholding tax in respect of royalties paid within a group of companies taxed under the special group treatment regime, provided that the payment relates to a tax period in which such regime applies.

The withholding tax rate on royalties, whose beneficial owner is a company from another EU Member State or a permanent establishment in another Member State of a company of a Member State, payable or paid by commercial companies or civil companies in commercial form, cooperatives and state-owned companies resident in Portuguese territory or a permanent
establishment situated therein of a company from another Member State, is 10% during the first four years from the date of application of Directive 2003/49/EC, Council June 3, and 5% over the next four years, where the terms, conditions and requirements set out in the Directive are met, without prejudice to bilateral agreements in force.

• **What are the rates of withholding tax on interest?**

  Interest payments are subject to withholding tax at the rate of 25% when paid to resident corporations (in such case, the tax withheld is an advance levy of corporate income tax) and 20% when paid to non-resident corporations.

  An exemption from withholding tax may apply in respect of interest paid within a group of companies taxed under the special group treatment regime, provided that the payment relates to a tax period in which such regime applies, interest or loans and credit facilities paid to resident credit institutions, interest and related charges arising on deferral or late payment of debt claims relating to supplies of goods or services by resident companies, interest on advance loans or bonds paid to a holding company (SGPS) by a company in which the SGPS has a direct or indirect holding of at least 10% of the voting rights for at least one year and interest on government bonds issued prior to May 4, 1989.

  The withholding tax rate on interest, whose beneficial owner is a company from another EU Member State or a permanent establishment in another Member State of a company of a Member State, payable or paid by commercial companies or civil companies in commercial form, cooperatives and state-owned companies resident in Portuguese territory or a permanent establishment situated therein of a company from another Member State, is 10% during the first four years from the date of application of Directive 2003/49/EC, Council June 3, and 5% over the next four years, where the terms, conditions and requirements set out in the Directive are met, without prejudice to bilateral agreements in force.

• **What are the rates of withholding tax on profits realized by a foreign corporation?**

  Fees for services supplied by foreign corporations in Portugal are subject to withholding tax at the rate of 25%.

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**XIII. TAX ON INDIVIDUALS**
A. Allowances

- What are the major allowances?

There are no personal allowances, but a taxpayer’s personal and family situations are reflected in various tax credits.

B. Calculation of Taxes

- How is the taxable base determined?

The Portuguese individual income tax (IRS) Code separates taxable income into six categories and, as a rule, specific deductions are granted for computing the net result of each category. Tax is levied on the aggregate base of the income categories, less personal deductions.

Taxable income of individual taxpayers is calculated under the cash receipts and disbursements method. Income is taxable in the year in which it is actually received or made available to the taxpayer. Capital gains accrue in the year in which the transfer is made.

Income-spreading is allowed for some categories of income where the taxpayer receives in one year income generated over the preceding six years, including the year of receipt. In such a case, the taxpayer may in his income tax return for the current year spread the amount of such income over the years in which it was generated.

C. Capital Gains Tax

- Are capital gains taxable?

Yes, capital gains are included in one of the six categories in which the IRS Code separates individual income (Category G). The positive result between capital gains and capital losses is aggregated to the remaining income, being subject to tax at the general rates.

D. Filing and Payment Requirements

- When must the individual file a tax return, if any?

As a rule, individuals are required to file an income tax return with respect to the previous year. The tax returns must be filed:
(i) when the taxpayer opts to file the tax return on paper during March of the subsequent year for taxpayers deriving only employment or pension income and during April for taxpayers deriving any other income, even if this includes employment or pension income;

(ii) when the taxpayers opts to file the tax return over the internet during April of the subsequent year for taxpayers deriving only employment or pension income and during May for taxpayers deriving any other income, even if it includes employment or pension income.

The tax assessment is usually made by the central tax authorities on the basis of the return. The assessments must be finalized by June 31.

- **When must the individual pay his/her taxes?**

  The individual income tax assessment is notified to the taxpayers, who must pay any tax due by August 31.

### E. Inheritance and Gift Tax

- **Does the individuals' presence in the country subject him/her to inheritance or gift tax?**

  Portugal does not have a specific Inheritance and Gift Tax since 2004, the year in which it was abolished. Notwithstanding, inheritances and gifts are still subject to tax under the Stamp Duty Code provisions. The Code stipulates that inheritances and gifts are subject to Stamp Duty whenever the assets inherited or acquired are located in Portugal. Therefore, the individual's presence in Portuguese territory does not determine, in itself, the subjection to Stamp Duty in what respects inheritances and gifts.

- **What kinds of assets are subject to tax?**

  The inheritance or gift acquisition of the following assets is subject to Stamp Duty:

  (i) Immovable property;

  (ii) Movable assets subject to registration (such as motor vehicles, boats and airplanes);

  (iii) Share capital, securities, bonds, certificates of public debt and money;

  (iv) Commercial, industrial or agricultural establishments;

  (v) Industrial property, royalties and related rights;
(vi) Shareholders’ advances and loans, share capital supplementary contributions, monetary accessory contributions and other claims of shareholders towards the company.

- **What are the tax rates?**
  
  Assets inherited or acquired with no compensation are taxed at 10% of its value. The inheritance of immovable property or other rights *in rem* in immovable property is taxed with an additional 0.8% tax rate on the value of the real estate.

- **Are allowances available?**
  
  The Stamp Duty Code does not provide for any allowance but there are exemptions for inheritances or gifts attributed to descendants, ascendants and spouses.

- **What are the payment and filing requirements?**
  
  The Stamp Duty assessment, when related to inheritances and gifts, is prepared by the tax authorities. The beneficiary of a gift or the person responsible for managing the inheritance must communicate to the tax authorities by means of an official model form the occurrence of the gift or the decease of the inheritance predecessor respectively, by the end of the third month following the arising of the tax obligation (i.e., the acquisition of the above described assets for no consideration or the opening of the succession). All beneficiaries of gifts or inheritances (even the ones that are tax exempt) shall deliver such communication detailing the assets received.

  The tax authorities will then notify the Stamp Duty assessment to taxpayers, who must pay the tax due by the end of the second month following the notification (when the amount of tax due is inferior to EUR 1,000) or during the month in which each instalment is due. The payment in instalments (a maximum of ten) occurs when the amount of tax due exceeds EUR 1,000. The minimum amount of each instalment is EUR 200.

F. **Miscellaneous Taxes Due**

- **What are the miscellaneous taxes to which the individual may be subject?**

  **Municipal Tax on the Transfer of Immovable Property (IMT)**

  A municipal tax on the transfer of immovable property is levied on the transfer of real estate located in Portugal. The tax is payable by the acquirer on the higher of the price paid and the taxable value of the property for municipal tax on immovable property (IMI) purposes.
IMT tax rates for corporate taxpayers are:

(i) 6.5% for the transfer of urban property;
(ii) 5% for rural property;
(iii) 10% for urban or rural property if the purchaser is a resident of a listed tax haven.

The acquisitions of immovable property by real estate trading companies, investment funds and pension funds are tax exempt, except if the acquirer is resident in a listed tax haven.

**Stamp Duty**

Stamp duties are levied on all acts, deeds, documents, securities, papers and other events that occurred in Portugal and are listed in the Stamp Duty Code and not subject to VAT, including gratuitous acquisitions of real estate located in Portugal.

- **What are the filing and payment requirements?**

  **Municipal Tax on the Transfer of Immovable Property (IMT)**

  The taxpayer must file in any local tax office or on the internet, a tax return of official model. The IMT assessment will then be prepared by the tax authorities and notified to the taxpayers, who, as a rule, must pay the tax due on the same date of the assessment or on the following working day. IMT is assessed and paid before the act of transfer of the immovable property.

  **Stamp Duty**

  Stamp duties are paid by filing an official model charging document.

**G. Real Estate/Habitation Tax**

- **Is the individual subject to real estate or habitation tax?**

  A municipal tax on immovable property (IMI) is annually levied on immovable property located within each municipality. The tax is levied on the registration value of the buildings, flats, plots of land and rural land.

  IMI assessments are prepared by the Portuguese Tax Authorities and notified to the person registered as the owner or user of any form of immovable property on December 31 each year (the person liable to taxation). IMI is paid in two instalments in April and September each year.

  IMI tax rates are:

  (i) 0.3 to 0.5% for urban buildings registered in the cadastre and/or owned from December 1, 2003;
(ii) 0.5 to 0.8% for urban buildings subject to the transitional scheme of evaluation;
(iii) 0.8% for rural property;
(iv) 7.5% for urban or rural property held by any resident of a listed tax haven.

H. Sales Tax

- **Does the individual pay sales tax?**

Yes. Generally speaking, a taxable person for VAT purposes is any individual or corporate entrepreneur exercising on a continuous and independent basis an activity of producer, trader or supplier of services.

Portuguese VAT liability is imposed on the following persons:

(i) any person who, independently, carries out in any place any economic activity, whatever the purpose or results of that activity, or practices only one taxable transaction, provided that this operation is connected with such activities, wherever it occurs, or where, regardless of this connection, this operation is subject to corporate income tax or personal income tax;

(ii) any person who, according to customs legislation, is an importer of goods;

(iii) any person who unduly mentions VAT in an invoice or in a document of equivalent character;

(iv) any person who carries out intra-Community transactions;

(v) any person referred in (i), who acquires certain categories of goods and services

(vi) any person referred in (i) who acquires goods and services from providers that do not have a seat, permanent establishment, domicile or a tax representative in Portugal.

I. Social Security and Welfare System Contributions

- **Are contributions to social security due?**

Employees must pay contributions to the social security system in an amount equal to 11% of their gross salary without any ceiling amount.

Member of corporate boards must contribute an amount of 11%, but the base of their contribution is subject to a ceiling of EUR 5,030.64 for all companies together where they hold office.
• Are contributions to the welfare system due?
No.

• If so, what are the payment and filing requirements?
N/A.

J. Stock Option, Profit Sharing and Savings Plans

• Is there taxation of stock option plans?
Yes. Gains derived from stock option plans or other award schemes of equivalent effect, over securities or similar rights created for the benefit of employees or members of corporate boards, including those resulting from the disposal or financial settlement of options or rights or surrender of them in return for valuable consideration, to the employer or third parties, and also gains from the repurchase by the employer of the securities or similar rights, but in any case, only to the extent that it is in the nature of remuneration, even if the gains arise only after termination of the employment relationship or term of office are considered employment income for personal income tax purposes.

• Is there taxation of profit sharing plans?
Yes. Income earned by members of joint ventures and other profit-sharing associations and, in the case of the latter, the profits of entities subject to corporate income tax (IRC) made available to shareholders or their associates, including advances on account of profits, as well as liquidation proceeds attributed to members that are considered as income from the application of capital according to the IRC Code and any amounts paid in respect received by a member after deducting any amount due by him in relation to his participation in the association is subject to personal income tax.

• Is there taxation of savings plans?
Not as a rule. Notwithstanding, costs borne by the employer on insurance and life assurance, contributions to pension funds, retirement funds or any supplementary social security schemes, provided that the rights are acquired and individualised and are specific as to the respective beneficiaries, as well as those that, not being acquired rights of specified beneficiaries, are susceptible of redemption, advance, repayment or any other form of advance to them, or in any case, of receipt
of a capital sum, even where the requirements of applicable compulsory social security systems are met for transition to retired status or it has already occurred are considered employment income for personal income tax purposes.

**K. Taxation of Benefits in Kind**

- **What is the rate of taxation on benefits in kind (e.g. automobile, housing and utilities, education, etc.)?**

  There are no special tax rates for benefits in kind. Therefore, all benefits in kind are taxed at the general tax rates mentioned in chapter M) below.

**L. Taxes on Dividends**

- **Are dividends taxable regardless of their form?**

  Yes. All dividends paid to individuals are subject to personal income tax (IRS), regardless of their form. When paid to resident individuals, dividends are subject to final withholding tax at the rate of 28%, except when the beneficiary elects to aggregate the dividends with the remaining income. In such case, the tax withheld will be considered an advance on the final tax liability and the dividends paid to residents will be subject to tax at the general personal income tax rate, which can go up to 48%.

  As for dividends paid to non-residents, they are subject to final withholding tax, regardless of their form, at the rate of 28%.

**M. Tax on Income**

- **What are the federal or national tax rates on income for residents?**

  The general tax rate applicable to the aggregate net income in the year 2013 run from 14.50% for taxable income up to EUR 7,000 to 48% for taxable income higher than EUR 80,000.

  Taxable income between EUR 80,000 and EUR 250,000 is also subject to an additional solidarity tax rate of 2.5% and taxable income above EUR 250,000 is subject to an additional solidarity tax rate of 5%.

  In the autonomous region of the Azores, the above mentioned progressive rates run from 10.2% (on the initial EUR 7,000) to 38.4% (on the excess of EUR 80,000).
Some types of income are subject to final withholding tax at the rate of 28%. That is the case of: (i) interest on demand deposits or time deposits, including certificates of deposit; (ii) income from debt securities, in nominative or bearer form, as well as income from repo transactions transfer of credit, securities accounts with guaranteed price or other similar or related instruments; (iii) the profits of entities subject to corporate income tax made available to shareholders or their associates, including advances on account of profits; (iv) liquidation proceeds attributed to members that are considered as income from the application of the corporate income tax code; (v) income earned by members of joint ventures and other profit-sharing associations and any amounts paid in respect of the cancellation of shares without reducing the share capital; (vi) gains arising from foreign exchange swaps, interest rate swaps, combined interest rate and currency swaps and forwards foreign exchange contracts; (vii) the positive difference between the amounts paid on redemption, advance or maturity of insurance and life assurance policies and the related premiums paid or sums invested is also considered investment income, as well as the positive difference between the amounts paid on redemption, remission or other form of early availability by pension funds or under other supplementary social security schemes, including those made available by credit unions, and the related contributions, without prejudice to the provisions of the following paragraphs, where the amount of premiums, sums or contributions paid in the first half of the term of the contracts represents at least 35%; (viii) income from securities paid or made available to recipients resident in Portuguese territory by entities without a domicile here to which payment can be imputed through intermediaries that are mandated by the payers or the recipients or that act on behalf of either of them.

- What are the federal or national tax rates on income for non-residents?

Portuguese-source types of income mentioned in the previous question, obtained by non-residents are subject to final withholding tax at the rate of 28%. Royalties, pension income, compensation in respect of damages, other than those to property, excluding compensation awarded by any court or arbitrator or resulting from a court-approved agreement, or relating to unproven damages and loss of profits only where these are intended to replace net benefits that are no longer receivable as a result of impairment and sums received as consideration for the assumption of obligations not to compete, regardless of their source or designation are subject to final withholding tax at the rate of 25%.
• What are the regional or state tax rates on income for residents?
N/A
• What are the regional or state tax rates on income for non-residents?
N/A
• What are the municipal or local tax rates on income for residents?
N/A
• What are the municipal or local tax rates on income for non-residents?
N/A

N. Tax Treaties

• Are there any applicable tax treaties?
Yes. Portugal as concluded several bilateral tax treaties for the avoidance of international double taxation. Currently, the Portuguese network of double taxation treaties in force includes the following countries: Algeria, Austria, Barbados, Belgium, Brazil, Bulgaria, Canada, Cape Verde, Chile, China, Colombia, Cuba, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Guinea Bissau, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Kuwait, Latvia, Lithuania, Luxembourg, Macao, Malta, Mexico, Moldova, Morocco, Mozambique, the Netherlands, Norway, Pakistan, Panama, Poland, Qatar, Romania, Russia, San Marino, Singapore, Slovak Republic, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Timor-Leste, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Venezuela.

• Are there any rules against treaty-shopping?
Yes. Many of the tax treaties in which Portugal has entered into restrict the application of the treaty, in what concerns dividends, interest and royalty payments, to those residents of both parties who are, simultaneously, the beneficial owner of the payments. This rule, allows Portugal to exclude from the scope of the tax treaties any nominees, agents and conduit companies, intentionally placed in one of the parties territory to benefit from the tax treaty. Furthermore, Portugal has accepted the introduction of LOB clauses in some of its treaties.
O. Territoriality Rules

- Where is the individual subject to tax?

Since Portugal is not a Federation, individuals are always subject to personal income tax (IRS) at a national level, wherever they are resident within the Portuguese territory.

- Is the individual subject to tax on his/her worldwide income?

 Resident individuals are taxed on their worldwide income, while non-resident individuals are only liable for personal income tax on their Portuguese-source income.

An individual is considered a resident of Portugal if:

(i) He remained in Portuguese territory for more than 183 days, consecutive or otherwise;

(ii) He has stayed in Portugal for a shorter period in any year in which he possesses a place of abode on December 31 of that year, under circumstances which imply his intention to keep and occupy such abode as his permanent residence;

(iii) He is, on 31 December of any year, a crew member of a ship or aircraft operated by a resident entity;

(iv) He discharges abroad an office or commission of a public nature at the service of the Portuguese State;

(v) He is a Portuguese national who moves his residence to a listed tax haven (in which case he is considered a resident of Portugal in the year of relocation and the following 4 years), unless he proves that the removal is for a valid reason, such as being seconded by his employer for performing a temporary activity.

If the head of a household is a resident of Portugal, all the other members of the household are also regarded as residents unless one of the spouses does not remain in Portugal for more than 183 days, consecutive or otherwise and proves the absence of a link between most of their economic activities and the Portuguese territory. In such case the spouse who meets these conditions is taxed as a non-resident.

Aggregation of all types of income in the family unit is mandatory. Spouses living together are jointly liable for the tax of the family unit. Spouses are taxed according to an income-splitting system which allows them to divide their combined income by two for the purposes of applying the progressive rates; the resulting tax liability is then doubled.
Partnerships subject to fiscal transparency are taxed in the hands of their partners. In all other cases, partnerships are treated as companies.

P. Wealth Tax
   • Is the individual subject to tax based upon his/her wealth?
     No.

Q. Withholding Tax
   • Is salary subject to a withholding tax at the source?
     Yes.
   • What is the treatment of residents as compared to non-residents?

     For employment income earned by resident individuals, personal income tax (IRS) is withheld as an advance payment, which means that the amounts paid are creditable against the final IRS liability. For earnings from regular wages, together or not with variable wages, the tax is withheld at rates between 0% and 35.60%, in accordance with withholding tables and with regard to the taxpayer’s personal circumstances. For exclusively variable earnings, the tax is withheld at flat rates between 0% and 40%, also in accordance with the approved withholding tables.

     For employment income earned by non-resident individuals, personal income tax (IRS) is withheld at the final rate of 25% on the gross salaries paid whenever the work is physically performed in Portuguese territory or the payer is established in Portugal and, in case of entertainers and sportsmen, if their activities are personally exercised in Portugal or the income accrues to a person other than the entertainer or sportsmen.

XIV. TAX ON OTHER LEGAL BODIES
A. Allowances
   • What are the major allowances (e.g. capital cost depreciation)?
   • What are the major deductible items?
   • What are the major expenses that are excluded from deductibility?
Please refer to answer provided on chapter XII, section A.

B. Calculation of Taxes
   • How is the taxable base determined?
     Please refer to answer provided on chapter XII, section B.

C. Capital Gains
   • What are the federal or national tax rates on capital gains?
   • What are the regional or state taxes on capital gains?
   • What are the municipal or local taxes on capital gains?
     Please refer to answer provided on chapter XII, section C.

D. Filing and Payment Requirements
   • When must the entity file a tax return, if any?
   • When must the entity pay its taxes?
   • Are taxes paid in instalments or annually?
     Please refer to answer provided on chapter XII, section D.

E. Miscellaneous Taxes
   • Are other taxes due?
   • What are the filing and payment requirements?
     Please refer to answer provided on chapter XII, section E.

F. Registration Duties
   • Are there registration duties or fees due upon the setting up of the legal body?
   • Are there registration duties or fees due upon a change in the capital of the legal body?
   • Are there registration duties due upon the transfer of capital?
   • Are there registration duties due upon a transfer of assets?
• Are there any other registration duties due?
Please refer to answer provided on chapter XII, section F.

G. Sales Tax or other Turnover Tax
• Is the legal body subject to sales tax or any other turnover tax (e.g. VAT., cumulative)?
• Is input tax creditable against output tax?
• What are the tax rates?
• What are the filing and payment requirements?
Please refer to answer provided on chapter XII, section G.

H. Social Security and Welfare System Contributions
• Are social security contributions due?
• Are retirement or pension contributions due?
• Are unemployment insurance contributions due?
• What are the filing and payment requirements for any such contribution?
Please refer to answer provided on chapter XII, section H.

I. Special Tax Themes
• Are there particular tax consequences of doing business in the country under the form of the particular legal body?
Please refer to answer provided on chapter XII, section I.

J. Tax on Profits
• What are the federal or national income tax rates on profits?
• What are the regional or state tax rates on profits?
• What are the municipal or local tax rates on profits?
Please refer to answer provided on chapter XII, section J.
K. Tax Treaties
   • Are there any applicable tax treaties?
   • Are there any rules against treaty-shopping?
   Please refer to answer provided on chapter XII, section K.

L. Territoriality Rules
   • Where is the legal body subject to tax?
   • Is the legal body subject to tax on its worldwide income?
   Please refer to answer provided on chapter XII, section L.

M. Treatment of Tax Losses
   • How is tax losses treated?
   Please refer to answer provided on chapter XII, section M.

N. Wealth Tax
   • Is there an applicable wealth tax?
   Please refer to answer provided on chapter XII, section N.

O. Withholding Taxes
   • What are the rates of withholding tax on the legal body's activities?
   Please refer to answer provided on chapter XII, section O.

XV. GENERAL TAX CONSIDERATIONS
A. Taxes Generally
   • Is there a generally accepted way of structuring the company or other entity so as to insure the desired tax consequences?
   There are many different ways of structuring a company and, although many tax consequences are similar (the legislator intends that the different forms of doing business are neutral for tax
purposes), the fact is that some tax consequences differ from structure to structure in order to adapt the tax system to the nature of each structure.

That being said, investors are allowed to choose any legally accepted form of structuring a company in order to insure the desired tax consequences as long as the chosen form is not ‘empty’. i.e., any structuring form is required to have some economic density underneath.

- **Is there an advance tax ruling that can be used to validate or invalidate the chosen form of doing business?**

Taxpayers, as well as lawyers, solicitors, auditors and accounting technicians or any other persons qualified to give tax advice about the tax status of their clients properly identified as such, may request an advance ruling about the tax situation of taxpayers including, by law, their eligibility for tax benefits.

The ruling must be requested from the General Director of Taxes and the application should be accompanied by a description of the facts, the tax treatment of which is being queried.

- **Is there a general anti-tax avoidance system?**

**General anti-avoidance rule**

The Portuguese General Tax Law contains a general anti-avoidance rule under which a transaction is void if it is proved that its main purpose or one of its main purposes was the reduction or elimination of tax which would be otherwise due by abusive means. In such case, the transaction in question will be subject to normal taxation.

In addition, the Corporate Income Tax Code contains specific anti-avoidance rules on tax-driven mergers, transfer of assets and exchange of shares.

**Anti-avoidance provisions to prevent the accumulation of income in offshore foreign-affiliated companies**

The IRC Code does not allow domestic entities to deduct payments made to companies located in listed tax havens or territories where those companies are subject to a tax rate of less than 20% or are exempt from tax unless they prove that the services rendered by the latter were real and the fees respected the arm's length principle. This rule inverts the burden of proof from tax authorities to taxpayers.

**CFC rules**
Under the controlled foreign corporation (CFC) rules, a Portuguese resident (individual or company) may be subject to corporate income tax (IRC) on the profits (distributed or otherwise) of a non-resident company in which it has (directly or indirectly) a substantial (25% or more) participation (10% where more than 50% of that company is owned, directly or indirectly, by Portuguese resident participators) and which is situated in a country or territory listed as a tax heaven or where it is either not subject to any income tax or the corporate tax imposed is less than 60% of the normal IRC rate (25%).

The Portuguese resident controlling company must include in its taxable base the after-tax profits of the foreign controlled company in proportion to its total participation (directly or indirectly) in that company. The amount of undistributed after-tax profits attributed to and subject to IRC in the hands of a resident recipient in a particular period may be set off against any dividends subsequently paid out of such profits. Thereafter the corporate recipient may credit against and up to the amount of its IRC liability the foreign withholding tax (in respect of dividends) and underlying corporate tax (in respect of attributed profits) paid by the CFC. Any unused credit may be carried forward to the subsequent five tax periods.

However, no attribution of profits will be made if the CFC can satisfy cumulatively both of the following two tests:

(i) 75% or more of its profits arise from local farming or manufacturing activities, or from commercial transactions mainly with the local market or not involving Portuguese residents;
(ii) its main activity is other than banking, certain types of insurance, holdings and other listed activities.

- Can the chosen form of business be treated as a deferent form for tax purposes?

Not as a rule, but under the provisions of the Portuguese anti-avoidance system (please see answer provided to the previous question) that is possible in specific situations.

XVI. IMMIGRATION REQUIREMENTS

A. Immigration Controls

- Are there immigration quotas?
There are no immigration quotas. However, the issue of residence visas for working in Portugal depends on the existence of job opportunities which are not fulfilled by (i) Portuguese citizens, (ii) by national employees of EU Member States, (iii) by national employees of European Economic Area, (iv) by national employees of a third State with which EU has entered into with a treaty of free circulation of people or (v) by national employees of third States who are legally residing in Portugal. For this purpose, the Portuguese government approves annually a resolution defining a global contingent indicative of the job opportunities presumably not fulfilled by those workers and the eventual exclusion of certain sectors or economic activities where there is no need of work force, if market conditions justify it.

- Are vaccinations required?
- Are medical certificates required?

No specific vaccinations or medical certificates are required upon entering into Portugal. However, in some cases, a medical exam may be required for applicants of a residence permit, in order to verify they do not suffer from any of the diseases defined by World Health Organization or other infectious diseases or contagious parasites subject to protection measures in the national territory.

- Are entry permits required?
- If so, must you apply for an entry permit before entering the country?
- Are exit permits required?
- Are re-entry permits required?

Please refer to answer provided on section B below.

B. Visas

In respect to foreigners who are citizens from a Member-State of the European Union or a State that is party to the European Economic Area, entry, circulation and residence in Portugal are assured pursuant to European legislation (Directive 2004/38/CE of the European Parliament and Council, April 29), which was transposed to Portuguese jurisdiction by Law 37/2006, August 9. According to law, these citizens and their family members can freely enter in Portuguese territory provided they have a valid identity card. Their right to reside in Portugal is free during three months. In order to reside in
Portugal for a period of more than three months, it is required that the citizen either (i) perform a professional activity (independently or subordinately), (ii) has sufficient financial resources for himself and his family, (iii) is registered in a public or private educational establishment and proves to have financial resources and health insurance (the latter only if required in his origin country for Portuguese citizens) or (iv) is a member of a European citizen’s family. Without prejudice to exceptional situations related to retirement, incapacity and others, citizens who have been legally residing in Portugal for five years acquire the right to permanently reside in the Portuguese country, which is extended to their family members.

The immigration requirements described below pertain only to foreigners that are not nationals from a Member-State of the European Union or a State that is party to the European Economic Area. Even with regards to such foreigners, special legislation or international treaties may apply, which are not considered in the description below.

All information below is based on Law 23/2007, July 4, amended by Law 29/2012, August 9, and Regulating Decree 84/2007, November 5.

- Immigration controls and requirements/formalities

People crossing the Portuguese border posts are subject to control, whenever (i) arriving or departing from a country that is not party to the Schengen Convention signed on June 19, 1990, or (ii) using part of a flight departing from or arriving in such a country.

As a rule, to enter and leave Portugal, foreigners must carry a recognized travel document (in general, a passport) valid for a period no shorter than the extension of the corresponding stay in this country, unless there are special circumstances set forth by law, namely if the relevant foreigner is the citizen of a state with which Portugal has an agreement allowing entry and stay on the basis of an identification card or an equivalent document.

Furthermore, in order to enter into Portuguese territory, foreigners in general must also hold a visa valid and appropriate to the purpose of the respective travel to Portugal.

Nevertheless, nationals from certain countries do not need to hold a visa if travelling only for pleasure or business purposes and on a short-term basis (e.g., US citizens).

In order to confirm the purpose and conditions of their stay, foreigners may be requested to present appropriate evidence. Furthermore, foreigners may also be requested to file a statement of a
Portuguese citizen or a foreigner entitled to stay in Portuguese territory undertaking the liability for the purpose and conditions of the stay of the applicant in Portugal.

As far as foreigner minors (less than 18 years of age) are concerned, their entry and departure from Portugal without the authorization of their respective parents or legal representatives should in principle be refused.

The refusal of entry should be justified and notified to the foreigner, who will be entitled to (i) appeal against the relevant decision, (ii) contact its country's local representation in Portugal or anyone else and also, (iii) be assisted by a doctor and an interpreter, if necessary. Foreigners whose entry in Portugal has been refused are also entitled to be assisted by a lawyer with the fees incurred possibly borne by the relevant foreigner.

Entry into Portuguese territory shall be refused to foreigners that (i) do not respect all the legal requirements, (ii) are registered under the Schengen Information System or the national list for no admittance into Portugal or (iii) constitute a danger or serious threat to the public order, national security, public health or international relations of the EU Member States, as well as the States where the Convention on the Application of Schengen Agreement is in force.

Foreigners that enter Portuguese territory through a border not subject to control are bound to declare such fact to the Portuguese Immigration Services within three working days, starting from the date of the entry. This obligation does not apply to citizens that benefit from the European regime, that are legally residing in Portugal for a period of more than six months or to those travellers that stay in hotels or other tourist installations after their entry in Portugal.

- **Visas required to enter and stay in Portugal**

  Portuguese law presently provides five different types of visas issued abroad, as follows:

  (i) Stopover aeroporto visa (“visto de escala aeroportuária”);
  (ii) Short-term visa (“visto de curta duração”);
  (iii) Temporary stay visa (“visto de estada temporária”);
  (iv) Residence visa (“visto de residência”).

  Visas referred to in the above sections (i) and (ii) may be valid for one or more countries that are party to the Convention on the Application of Schengen Agreement as of June 19, 1990, and visas referred to in the remaining sections are only valid in Portuguese territory.
The individual visa is stamped in an individual or family passport. The visas which are granted abroad have the individual form. The above-mentioned types of visas differ on the relevant purposes and duration of the stay, as summarily explained below. The duration referred to in the following explanation with regards to each type of visa may normally be extended for certain periods and under certain circumstances, upon request filed with the Portuguese Immigration Services (Serviços de Estrangeiros e Fronteiras).

Stopover airport visas

Stopover visas are required for citizens of certain countries identified by the Internal Affairs Ministry and Foreign Affairs Ministry or citizens holding travel documents issued by the administrative authorities of such countries. Stopover visa holders only have access to the international zone of the airport.

Short-term visas

This type of visa allows entry into Portugal for purposes that (i) are accepted by the relevant administrative authorities and (ii) do not justify the issuance of any other kind of visa (e.g., tourism).

Notwithstanding, special conditions applicable to granting each type of visa and special regimes contained in treaties, protocols or similar international instruments, the short-term visa may only be granted to nationals of third countries who (i) have not been subject to removal measure from Portuguese territory, (ii) are not mentioned as “not admitted” in the Schengen Information System, (iii) are not mentioned as “not admitted” in the Integrated Information System of the Portuguese Immigration Services (Serviços de Estrangeiros e Fronteiras), (iv) have not been convicted of a crime punishable by imprisonment of more than one year, (v) possess livelihoods (vi) hold a valid travel document and (vii) carry travel insurance.

This visa may be granted for a term of no longer than one year, allowing one or more entries, provided the relevant foreign citizen does not stay in Portugal for more than ninety days for each one hundred and eighty day period, starting on the date of the first entry in Portugal. This visa may be extended up to ninety days (extendable for another similar period), provided the conditions of its initial grant are maintained.

Temporary stay visa

This type of visa is aimed at allowing a foreign citizen to enter Portuguese territory for several purposes, namely for receiving medical treatment in officially recognized establishments, for
following family members in order to receive medical treatment, for the transfer of citizen nationals of Members States of the World Trade Organization, for performing, independently or subordinately, a professional activity that does not exceed, in principle, six months, for performing scientific investigation in investigation centers or teaching activity in universities during a period of less than one year. In other restricted situations this visa may also be issued.

Notwithstanding, the special conditions applicable to the granting of each type of visa and the special regimes contained in treaties, protocols or similar international instruments, the temporary stay visa may only be granted to nationals of third countries who (i) have not been subject to removal measure from Portuguese territory, (ii) are not mentioned as “not admitted” in the Shengen Information System, (iii) are not mentioned as “not admitted” in the Integrated Information System of the Portuguese Immigration Services (Serviços de Estrangeiros e Fronteiras), (iv) possess livelihoods, (v) hold a valid travel document and (vi) carry travel insurance.

The temporary stay visa requests should be decided within a period of thirty days.

This visa is valid for multiple entries in Portugal and may only be granted for periods of up to four months, except in the case of a temporary stay visa granted in order to perform a subordinate professional activity (in this case, the visa is granted for the period of time equal to the duration of the employment agreement). The temporary stay visa may be extended up to one year (extendable for another similar period), provided the conditions of its initial grant are maintained and provided it is not a visa granted for employment in Portugal (in this case, the extension is only allowed up to ninety days).

Nationals from a third country not pertaining to European Union, who reside in a EU Member State and are regularly employed in a company established in a EU Member State, are exempted from applying for a temporary stay visa, provided they maintain the labour relationship and enter in Portugal to render services.

**Residence visa**

This type of visa allows foreigners to enter into Portuguese territory in order to request a residence permit.

The residence visa is intended for various purposes, namely (i) to perform a subordinate or independent professional activity, (ii) to perform scientific investigation in recognized investigation centers or highly qualified activity, (iii) to teach in universities, (iv) to attend a study program, (v) to
participate in student exchange programs, (vi) to attend non paid training courses in companies, (vii) to reunite family members and (viii) to enterprising immigrants who intend to invest in Portugal, provided they have made investment operations and prove to possess financial means available in Portugal.

Notwithstanding the special conditions applicable to each type of visa’s granting and the special regimes contained in treaties, protocols or similar international instruments, the residence visa may only be granted to nationals of third countries who (i) have not been subject to removal measure from Portuguese territory, (ii) are not mentioned as “not admitted” in the Shengen Information System, (iii) are not mentioned as “not admitted” in the Integrated Information System of the Portuguese Immigration Services (Serviços de Estrangeiros e Fronteiras), (iv) have not been convicted for crime punished with imprisonment of more than one year, (v) possess livelihoods and (vi) a travel document that assures his return, (vii) hold a valid travel document and (viii) carry travel insurance.

Despite shorter terms foreseen by law in particular cases, a residence visa request should be decided within a period of sixty days.

This visa is valid for two entries into Portugal and allows its holder to stay in Portugal for a period of four months. It may be extended up to ninety days.

Nationals from a third country not pertaining to the European Union, who reside in a EU Member State and are regularly employed in a company established in a EU Member State, are exempt from applying for a residence visa, provided they maintain the labour relationship.

Other visas

At Portuguese borders subject to control, two types of visas (short-term visa and special visa) may be granted to foreign citizens.

The short-term visa may be exceptionally granted to people who, for unpredictable reasons, had not requested a visa from the competent authority, provided that: (i) he holds a valid travel document; (ii) he possesses sufficient means to pay an amount of EUR 75 for each person’s entry and EUR 40 for each day in Portugal; (iii) is not included in the Schengen Information System or in Portuguese list of non-admissible people; (iv) does not constitute a threat to public order, national security or international relations of a EU Member State; (v) has the return travel guaranteed as well as his admission in the return country. The short-term visas granted under this regime are only valid...
for one entry and allow its holder to stay in Portugal for a period of no longer than fifteen days. The special visa may be granted to foreign citizens for humanitarian or national interest reasons, recognized by the Minister of Internal Administration.

- **Application for visas and respective costs**

**Visas in general**

Stopover airport and short-term visas must be applied for in the Portuguese embassy or in the career consulate post pertaining to the country of the applicant’s residence, whereas visas mentioned in the remaining sections must be applied for in the career consulate post pertaining to the country of the applicant’s residence.

Temporary stay and residence visas depend on a previous favourable opinion of the Portuguese Immigration Services (*Serviços de Estrangeiros e Fronteiras*). Other visas may also be subject to such opinion if so determined by reasons of national interest, internal safety or illegal immigration prevention. In urgent and duly justified cases, such opinion may not exempt holders of residence visas from performing independent professional activity and from temporary stay visas. The Portuguese Immigration Services’ opinion is issued within a 20 days period and the absence of it means a favourable opinion. When not favourable, the opinion is binding in cases where it has been determined by reasons of national interest, internal safety or illegal immigration prevention.

Other visas are issued at the Portuguese borders posts.

The application should be made on the proper form, signed and personally delivered to the relevant services located in the country of residence. In exceptional and duly justified cases, the presence of the applicant may be dispensed with on the grounds referred to in the application form.

If the application for a visa refers to people less than 18 years of age, the corresponding authorization shall also be filed. The competent authorities may request at any time the presence of applicants to render further information that may be required for deciding on the application.

The expected period for a visa to be issued is hard to predict and may vary in accordance with the type of visa sought and the Portuguese consulate involved. According to present administrative practice, the issuance of labor or residence visas may take several months.

The application shall be immediately denied if not filed with all documents required or if it is insufficiently justified. Issuance of visas by Portuguese embassies may cost between EUR 35 and
EUR 90, depending on the type of visa, pursuant to Ordinance no. 320-C/2011, December 30, amended by Ordinance no. 296/2012, September 28.

The application for a visa shall be filed with the following information and documents:

(i) The complete identification of the applicant and of the other individuals that are to be included in family or group visas;
(ii) Type, number, date and place of issuance and validity of the relevant travel document and the identification of the authority that has issued such document;
(iii) The purpose of the stay;
(iv) The duration of the stay;
(v) Name of the reception person or company, when applicable;
(vi) Place of accommodation, when applicable;
(vii) Two similar photos, small size in colour and with a clean background, up to date and in good condition for the identification of the applicant;
(viii) Passport or other relevant valid travel document;
(ix) Whenever temporary stay and residence visas are requested, a certified criminal record issued by the competent authority of the country from which the applicant is a national or in which the applicant has been living for more than one year;
(x) Application for the Portuguese Immigration Services (SEF) to obtain a Portuguese criminal record;
(xi) Valid travel insurance, that covers the expenditure necessary for medical care, including urgent medical assistance and eventual repatriation;
(xii) Evidence of the existence of sufficient means of subsistence, in accordance with the requested type of visa;
(xiii) Copy of the return travel document, except if a residence visa in order to regroup family members is requested (in this case, no return travel document is required).

In addition to the documents and information outlined above, other elements are required for certain types of visas, as follows:

Stopover airport visas

The application shall also be filed with a copy of the travel title to the final destination country and evidence that the applicant is entitled to entry into such country. The applicant for a transit visa
shall also show evidence of having sufficient means of subsistence both for a stay in Portugal and travelling to the final destination country.

**Short-term visas**

The application shall also be filed with documents justifying the purpose of the travel and the conditions of the stay.

**Temporary stay visas**

Depending on the purpose of the temporary visa applied for, the application shall be filed with additional documents, as follows: (i) to receive medical treatment - a medical report and a document issued by the health establishment proving the applicant’s hospitalization or that clinical treatment is assured; (ii) to follow a family member within a medical treatment - evidence of the family relationship; (iii) to transfer citizen nationals of Members States of the World Trade Organization for services to be rendered or for professional training in Portuguese territory, possessing documents proving that the specific requirements of the transfer are fulfilled; (iv) to temporary work or perform an independent activity - promissory employment contract or employment contract (in case of subordinate professional activity), company’s bylaws or service rendering contract (in case of independent professional activity), statement issued by the authority competent to verify the special requirements to perform a certain profession, when applicable, and a statement to be issued by Professional Job and Training Institute (Instituto do Emprego e Formação Profissional/IEFP) that the promissory employment contract or employment contract refers to a job offer available to nationals of third countries; (v) to develop scientific investigation work, teaching activity in a university or perform a highly qualified activity - documents proving the admission to collaborate with a recognized investigation centre and the existence of a promissory contract, an employment contract or a service rendering contract.

**Residence visas**

Depending on the purpose of the visa applied for, the application shall be filed with additional documents, as follows: (i) to work: employment contract, promissory employment contract or individual’s interest declaration; statement issued by Instituto do Emprego e Formação Profissional regarding working quotas available and document proving the applicant is enabled to perform a certain profession, when needed; (ii) to perform an independent activity, company bylaws or services rendered contract proposal, as well as a document proving the applicant is able to perform a certain
profession, when applicable; (iii) to invest in Portugal by an enterprising immigrant: statement proving the immigrant made or intends to make an investment in Portugal (indicating its nature, value and duration), as well as a document proving he did make an investment in the past or that he possesses financial means available in Portugal, including the financing obtained in a Portuguese financial institution, or the intention to proceed with an investment operation in the Portuguese territory, duly described and identified (this visa request will be analyzed taking into account the economic, social, scientific, technological or cultural relevance of the investment); (iv) to perform investigation, teaching or highly qualified activity: either a document proving the admission as collaborator in a recognized investigation centre, a promissory employment contract, an employment contract, a written proposal of work or a service rendering contract (in the specific case of visa applied for to perform a highly qualified activity, the employment of work should have the minimum duration of one year and, as a rule, establish an annual remuneration of, at least, 1,5 times the minimum monthly legal wage or 3 times the IAS (Indexante dos Apoios Sociais), currently in the amount of € 419,22, as well as the foreign citizen should have the professional qualifications adequate to the activity); (v) to attend a study program, participate in student exchange programs or attend unpaid training course: documents proving the registration in the educational establishment or in the company or entity where the training course will take place, guaranteed accommodation and family reception.

Other visas

Short-term visas require, if possible, the presentation of documents proving the unpredictable reasons that prevented the applicant from requesting the competent visa.

C. Residence permits

Material requirements and types of residence permits

As a rule, a residence permit may only be granted to holders of a valid residence visa or a temporary residence permit, who stay in Portugal. Nevertheless, the residence permit shall not be granted based on public order, public security or for public health reasons, as well as if there is any circumstance that would jeopardize the issuance of the residence visa, depending on the type of residence visa applied for (performance of a professional activity, either subordinated or independent, performance of an investigation or highly qualified activity, study program, participate in student exchange programs or attend unpaid training course, volunteers, family member regroup,
investment activity, among others). In some cases, a medical exam may be required of the applicants of a residence permit, in order to verify that they do not suffer from any of the diseases defined by World Health Organization or other infectious diseases or contagious parasites subject to protective measures in the national territory.

There are two types of residence permits: temporary and permanent. The temporary residence permit is granted for one year starting on the date of issuance and it is renewable for subsequent periods of two years. The permanent residence permit has no expiration date; however, it should be renewed every five years or whenever any change of facts of identification occurs.

The permanent residence permit, among other conditions, is only to be granted to holders of a temporary residence permit for at least 5 years, who demonstrate basic knowledge of the Portuguese language.

The renewal of the temporary residence permit shall be requested no later than 30 days before the corresponding expiration date.

The residence permit may be cancelled, namely if the relevant holder is out of Portugal, without a valid reason, for more than (i) six months uninterrupted or eight months intermittently (temporary permits) or (ii) twenty-four months uninterrupted or thirty months intermittently in a three year term (permanent residence permit).

In certain cases, a residence permit may be granted to citizens who do not hold a valid residence visa or temporary residence permit. This occurs, in several other special situations: with resident permit holders’ minor children who were born in the Portuguese territory, with a person who stays in Portugal for a period of more than three months, provided he performs a professional activity, participates in a study or professional training program or presents a valid motive to reside in the national territory.

Finally, the residence permit is not required of diplomatic and consulate agents residing in Portugal, administrative and domestic employees who render services in the diplomatic missions or consulate delegations of the respective States, workers of international organizations with headquarters in Portugal and the members of their families. Regarding these citizens, an identification document is issued by the Foreign Affairs Ministry, after applying to the Portuguese Immigration Services.

**Application for residence permits**
The application for a residence permit shall be filed at the regional department of the Portuguese Immigration Services (Serviço de Estrangeiros e Fronteiras) pertaining to the residence of the interested foreigner.

Furthermore, the application for a temporary residence permit shall be filed with an official form together with the following documents and information:

(i) Passport or other valid travel document;
(ii) Evidence of the means of subsistence;
(iii) Evidence of accommodation;
(iv) Evidence of the family relationships justifying the residence permit, if relevant;
(v) Evidence of the professional certification, when applicable;
(vi) Application for the Portuguese Immigration Services (SEF) to consult Portuguese criminal record;
(vii) Necessary information to verify the applicant’s inscription in the fiscal administration and social security, when applicable.

Depending on the purpose and type of the temporary residence permit applied for, other specific documentation is required.

Regarding a permanent residence permit it shall be filed with an official form together with the following documents and information:

(i) Passport or other valid travel document;
(ii) Evidence of the means of subsistence;
(iii) Evidence of accommodation;
(iv) Application for the Portuguese Immigration Services (SEF) to consult Portuguese criminal record;
(v) Evidence of basic knowledge of the Portuguese language;
(vi) Necessary information to verify the applicant’s fulfilment of fiscal and social security obligations.

Depending on the purpose and type of the permanent residence permit applied for, other specific documentation is required.

According to common practice, a final decision by the Portuguese Immigration Services (Serviço de Estrangeiros e Fronteiras) can take several months. Administrative costs due for the issuance
of a resident permit vary between EUR 65 and EUR 5,000, pursuant to Ordinance no. 1334-E/2010, December 31, as amended by Ordinance no. 305-A/2012, October 4.

XVII. EXPATRIATE EMPLOYEES

A. Drivers' Licenses

• Must the investor obtain a driver's license for that country?
• How does the investor obtain a driver's license?
• What fees are involved?
• Is an examination, either practical or written, required?

Driving licenses issued by countries belonging to the EEA (EU Member States, Iceland, Liechtenstein and Norway) are valid in Portugal and the request for an equivalent national driver's license is optional. Drivers establishing residence in Portugal have a duty to inform the national Institute of Mobility and Inland Transport (Instituto da Mobilidade e dos Transportes Terrestres/IMTT) (www.imtt.pt) of their area of residence within the 30 day period following the establishment of residence in the national territory – the infringement of this rule is subject to a penalty.

To obtain a Portuguese driving license by exchange from another EEA country, the application form can be obtained in the IMTT referred website. A fee of EUR 30 is applicable.

Drivers with licenses from non-EEA member countries can apply for a national driving license exchange without a driving license test after 185 days of their arrival in Portugal in the following situations:

(i) Licences issued by a country with which Portugal has signed a bilateral agreement or has a mutual recognition agreement – cases of Switzerland, Morocco, Republic of São Tomé and Príncipe (Decree-Law no. 8/2009), Republic of Mozambique (Decree-Law no. 19/2009), Republic of Angola (Decree-Law no. 48/2008), Principality of Andorra (Decree-Law no. 47/2008), Republic of Cape Verde (Decree-Law no. 10/2007), Federative Republic of Brazil (Dispatch no. 10.942/2000) and United Arab Emirates (Memorandum of Understanding on the Mutual Recognition of Driving Licences signed on 18 January 2011);
(ii) Licences from countries that acceded to the International Conventions on Road Traffic; and

(iii) Licenses issued by the former Portuguese Administration of Macao or by the Special Administrative Region of Macao.

A fee of EUR 30 is applicable for the exchange licence procedure.

Drivers with licences issued by countries not referred above or that did not accede to the International Conventions on Road Traffic, may not drive a vehicle in the Portuguese territory.

In this case, the validity of the licence, for each category that the driver holds in the country in which the licence was issued, depends on the completion and approval in a driving test. For the purpose of this examination, enrolment in a driving school is not mandatory.

The application form for the examination is available in the website of IMTT, identified above, and the applicable fee corresponds to EUR 90.

B. Education

• What types of schools are available for the investor's family?

In the Lisbon and Oporto metropolitan areas there are American (e.g. www.caislisbon.org), English (e.g. www.stjulians.com), French (e.g. www.lfcl-lisbonne.eu), German (e.g. www.dslissabon.com) and Spanish (e.g. www.exterior.pntic.mec.es/instituto.de.lisboa) primary and secondary schools. In the southern region of Portugal (Algarve) there are also English primary and secondary schools.

In Portuguese public and private schools the working language is the official national language.

For a detailed list with the geographical location of all primary and secondary public schools visit the school website of the Ministry of Education at: www.portaldasescolas.pt.

• What fees are involved?

Fees charged by international primary and secondary schools in Portugal may vary from EUR 400 to EUR 1,000, per month. In some international schools there are scholarships available for the best students (e.g., in the Deutsche Schule Lissabon – www.dslissabon.com – or in St. Julian’s School – www.stjulians.com). Enrolment in national public primary and secondary schools is not subject to
the payment of any fee. The fees in private Portuguese primary and secondary schools are similar to those charged in international schools.

- **What is required for enrollment?**
  
  International schools require parents to complete an application form; the enrollment process may also include an interview with the parents and a fluency test or screening on the relevant language. The enrollment conditions are determined by each international school and may vary.

  In some international schools – as the *Lycée Charles Lepierre* ([www.lfcl-lisbonne.eu](http://www.lfcl-lisbonne.eu)) or the *Deutsche Schule Lissabon* ([www.dslissabon.com](http://www.dslissabon.com)) – students with the school’s nationality have priority in the selection enrollment process.

- **Can the investor or company receive a tax benefit?**
  
  In Portugal, as a rule, the expenses related with education, including enrollment and tuition fees, may be tax deductible, depending on the parents’ income. If the education costs are supported by the parents’ employing company, these can, as a rule, be qualified as costs deductible under the national corporate income tax rules.

**C. Housing**

- **What type of housing is available for the investor?**
  
  All types of housing are available for the investor.

- **Can the investor own property?**
  
  The investor may own property without any restrictions.

- **Must the investor have housing before entering the country?**
  
  Housing is not a requirement to enter the country.

- **Can the investor subsidize housing and receive a tax benefit?**
  
  If the investor provides the benefit of accommodation to an employee, the costs of providing this benefit are deductible for corporate tax purposes.

**D. Importing Personal Possessions**

- **How can the investor import personal belongings?**
Investors may import their personal belongings either before or after moving their residence to Portugal and they may choose to import all the personal belongings at once, or in several phases.

- **Are import duties payable?**
  The import of personal belongings is VAT exempt and duty free provided such belongings have been used by the investors in the country of origin for at least six months prior to their departure.

- **Are there requirements for clearing the belongings through customs?**
  For each import the investor must fill a customs entry.

E. **Medical Care**

- **What level of medical care is available?**

- **Is there national health care?**
  Medical care is guaranteed by the National Health Care System (Serviço Nacional de Saúde/SNS), which is supported by the Portuguese Government and which covers all medical specialties.
  
  Portuguese Republic Constitution establishes that all citizens who reside in Portugal – even foreigners – have the right to global health care services and, for that reason, all existing health means shall be provided in the exact measure of the needs of each person independent of their economical, social and cultural conditions.
  
  Legislative Order (Despacho) no. 25360/2001 guarantees to all foreign citizens who regularly reside in Portugal the same rights and duties of the national beneficiaries regarding access to health care and drug assistance.
  
  Nationals of the countries with which Portugal has entered into bilateral and reciprocal agreements have access to health care in Portugal according to the terms of the mentioned agreements.
  
  Nationals of other countries or foreigners, who reside in Portugal but do not have their situation legalized yet, can be attended to in the medical center of their residence area or in hospitals through the payment of moderate rates.

F. **Moving Costs**
• **What costs are involved in moving?**

There are no special costs in moving to Portugal. Therefore, the investor will have to bear travelling and housing costs, as well as the costs inherent to the importation of the investor’s belongings and, in case the investor intends to stay in Portugal for more than three months, the costs of obtaining a permanent visa.

• **Can the investor receive any tax allowances?**

No tax allowances related to moving costs are provided under Portuguese law.

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**G. Tax Liability**

• **What is the expatriate's tax liability?**

A special income tax regime is available to non-habitual resident individuals for tax years 2009 through 2020. Non-habitual resident individuals are defined as individuals who have become residents of Portugal on or after January 1, 2009, provided that they had not been residents during the five previous years. Under this regime, non-habitual residents are eligible for a 20% income tax rate on their Portuguese-source employment income as well as business and professional income, provided that they engage in scientific or highly technical activities.

The regime also allows the application of the exemption method for the elimination of double taxation of foreign-source passive income, including dividends and income from independent personal services. Non-habitual residents may also opt for the exemption method with respect to foreign-source income taxable in the source state under a tax treaty.

Individuals who are not eligible for the non-habitual residents tax regime will either be treated as residents or non-residents for tax purposes (IRS), since there are no other specific provisions relating to expatriates (please see chapter XIII).

• **What are the allowances?**

Please refer to chapter XIII, section A.

• **Are there any applicable tax treaties?**

Please refer to chapter XIII, section N.

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**H. Work Contracts**
• Does the investor need a work contract to work in the country?
• If so, does the contract have to be for certain duration, for the performance of a specific job or for a specific position?
• Does the contract have to be with a national or resident of the country or related state?

Please see answer to section I below.

I. Work Permits
• Does the investor need a work permit to work in the country?
• How and where does the investor apply for the permit?
• What documents are required?
• What fees are involved?
• How long does it take to receive the permit?
• For how long is the permit valid?

Please see answers to section B of chapter XVI above, which cover the themes contained in all these questions. According to the above mentioned, please note that for a foreigner to enter into Portuguese territory, whether an investor or not, he must hold a visa valid and appropriate for the purpose of travel to Portugal.

Should the purpose of his entry into Portugal be to invest in the Portuguese territory, a residence visa is adequate and no employment contract is required.

Should the purpose be to render subordinated work or to develop an independent activity, the appropriate visa should be the temporary stay or the residence visa. In both cases, the documents required to be filed with the application include (i) a promissory employment contract or an employment contract (in case of subordinated work), (ii) a company’s bylaws or service rendering contract (in case of independent professional activity), (iii) a statement issued by the Professional Job and Training Institute (Instituto do Emprego e Formação Profissional/IEFP) according to which the promissory employment contract or employment contract refers to a job offer available to nationals of third countries and (iv) a statement issued by the authority competent to verify the special requirements to perform certain professions, when applicable. In case an employment contract is
required, it must state the position and work to be rendered, but no minimum duration is required. The employment contract has to be valid according to Portuguese labour law.

The temporary or permanent residence permit may also apply provided their legal requirements are fulfilled.
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