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5 Ubosi Eleh & Co, *The Nigeria Real Estate Market Review and Strategic Outlook 2017*, https://ubosieleh.com/nigeria-real-estate-market-review-strategic-outlook-2017/ accessed 7 July 2017.
6 Tayo, 'Housing deficits: the myths, the realities' (*Economic Confidential*, 14 Jan 2016) https://economicconfidential.com/special-focus/housing-deficits-myths-realities/ accessed 7 July 2017.
7 Dolapo Omidire, 'Here are the Challenges facing Nigerian REITs and the actions Regulators will take', (*Estate Intel*, 8 June 2017) https://estateintel.com/summary-of-discussions-from-the-nigerian-stock-exchanges-inaugural-reit-conference/accessed 7July 2017.
8 EY, *Global Perspectives: 2016 REIT Report*.
9 In May 2017, the Nigerian Stock Exchange held a REIT conference involving stakeholders across various sectors, where these issues were discussed.
10 Rule 525.
11 This issue was acknowledged in the keynote address delivered by the Nigerian Stock Exchange First Vice President at the Nigerian Stock Exchange REITs conference held on 23 May 2017, available at www.nse.com.ng accessed 7 July 2017.
12 Available at www.sec.gov.ng accessed 7 July 2017.
13 Debt Management Office, 26 March 2010, Special Report, www.dmo.gov.ng accessed 7 July 2017.
14 National Tax Policy 2012: List of Laws and Regulations Recommended for Review and Amendment.
15 At the Nigerian Stock Exchange conference on REITs held 23 May 2017.
16 See n 7 above.

Airbnb versus landlords: law-makers set to reduce the tax gap between short-term lets and normal leases; government official says it's too early

PORTUGAL

João Valadas Coriel

Valadas Coriel, Lisbon

joao.coriel@valadascoriel.com

Portuguese law-makers are becoming concerned by the growing diversion of apartments and houses from regular rental to short-term leases managed by Airbnb and similar services. One of the reasons is the tax advantages granted to short-term leases. The 2017 budget stipulates that only 35 per cent of touristic or short-term leases are subject to taxation, which means a final tax bill that is no higher than 13.5 per cent in the highest tax brackets for individual investors. This contrasts with regular leases paying a flat 28 per cent rate on income. If you add arcane legislation and snail-paced courts that make it difficult, costly and lengthy to evict defaulting tenants, it is no wonder that investors are flocking to buy whole buildings to convert into short-term rentals.

This is already producing a shortage of houses for regular leases in central Lisbon and the consequent rise in rents, which have increased by 30 per cent[1] in the last two years.

Short-term lets also have huge advantages if you use a simplified company to run the business. If the company's gross income doesn't exceed €200,000 annually, the effective rate to short-term let and other touristic activities are kept at a mere 7.35 per cent of gross income.

Defenders of the status quo argue that these tax advantages were indispensable to lure an otherwise semi-clandestine activity to taxation. In recent years, taxes were even lower, and a mandatory registry for houses devoted to short-term rentals was kept very light on regulation and bureaucracy. The current Secretário de Estado das Finanças has recently affirmed that it is too soon to increase fiscal pressure on short-term lets, considering that this area of business is still prone to tax evasion.

Airbnb: 'alojamento local' regime

The so-called '*alojamento local*' regime is available for the short-term rental of residential properties to tourists for a duration of less than 30 days, and may be done both by companies or individual landlords. This activity is subject to a simple notification to the local council to be done before the commencement of the activity and registration at the local tax office, and has certain requirements as to the hygiene, safety and conditions of the property. This special kind of leasing, *alojamento local*, requires additional services, such as housekeeping.

Whenever gross annual revenues do not exceed €200,000, *alojamento local* may benefit from a simplified regime of taxation. In this regime, only 35 per cent of gross revenue is subject to taxation. For individuals, this results in a top tax rate not exceeding 13.5 per cent, although much lower on small incomes. For companies, the effective corporate rate of taxation may be only 7.35 per cent.

Companies would be required to have organised accounts, but under a simplified accounting system. This is clearly the best available regime of the sort that can be found in Europe or even elsewhere, and has been in high demand in the major cities and places of tourist interest in Portugal for both domestic and foreign investors.

Opening a hotel is increasingly simple

According to Associação de Turismo de Lisboa,[2] 13 hotels opened in 2016 and 18 are under construction or renovation in Lisbon, deemed to open in 2017. In a not-so-distant past, licensing a hotel was a Kafkaesque obstacle course against scores of bureaucrats, with scarcely any communication among them, who tended to look at regulations like holy scriptures.

Recent changes in legislation and the different attitude of officialdom essentially transferred almost all public control to the planning phase. Developers submit detailed plans to city councils, and once such projects are deemed to comply with existing rules, a building permit is issued. After completion, inspection by the city council, once mandatory, is now reserved to situations in which officials have reason to believe that works were not carried out according to the approved plans or present a safety risk.

Developers are no longer hostages to the inertia of officials, who have no more than 20 days to issue a licence or move for an inspection. If a licence is not issued within this time, the developer can lawfully open for business with only a few affidavits by the director of works and supervision, and a formal communication to the city council and Portuguese Tourism Office.

As recently as May this year, we personally tested this fast track for a new hotel and managed to get a licence in a record 14 days!

Real estate market overview

The Portuguese real estate market is officially booming. Prices in prized residential areas have been constantly increasing since 2014. Prices in neighbourhoods such as Chiado and Avenida da Liberdade have skyrocketed due to scarcity, with most new developments being sold off-plan. The urban landscape in Lisbon and Oporto is punctuated by cranes. Yet, prices for premium residential property are still a bargain in comparison with other trendy European cities. Fully renovated or new top bracket apartments will go from €5,000 to €9,000[3] per square metre. Used apartments in trendy neighbourhoods can be found from €3,000 per square metre. Several central European funds are investing extensively in property for renovation, seeking comfortable yields no longer available in classic property hubs such as London, Paris or Berlin. The market is fuelled mainly by Europeans that seek the Portuguese non-habitual tax resident regime, and Brazilians and other South Americans seeking shelter from regional turmoil. In Lisbon, the Lycee Français has seen its student population increase by 25 per cent in two years, and the same has happened in all other international schools around Lisbon.

Purchasing property

In Portugal, anyone from anywhere can buy real estate. The buyer will pay a sales tax of six or 6.5 per cent plus stamp duty at 0.8 per cent.

Brokers will charge five per cent, but are always paid by the seller. Typical conveyance and due diligence fees by lawyers will be anything from one per cent to 2.5 per cent of the purchase price.

Deeds are always performed by a notary, unless real estate is bought with bank financing, in which case, the deed can be entered at the bank. All real estate transactions are registered both at the tax office and central land registry.

Portuguese banks are offering eligible foreign buyers for selected properties loans of up to 75 per cent of the valuation of the property. Interest rates are now between 1.5 per cent and 3.5 per cent.

Property in Portugal is hot right now. We have seen large numbers of Brazilian, French, Italian, Chinese and Turkish people investing because of affordable property prices, political stability and an open, secure and friendly society.

What about becoming a permanent visa holder or Portuguese tax resident?

Portugal offers standard residence permits to investors in a much more flexible manner than most European countries, without discrimination as to the origin of investors. The best option is to adhere to the golden visa programme, which is accessible to those investing in a real estate property with a value of at least €500,000 or only €350,000 if located in an area of urban rehabilitation or a city's historic centre. Golden visas only require holders to be present in Portugal for a period of seven days per year, not necessarily consecutive, and offer a fast track for Portuguese citizenship after the sixth year of residence. This provides access to all 26 countries in the European Union's Schengen area without a visa, and is attractive for non-EU citizens.

The good thing about the programme is that it is possible to sell the property at any time, rent it out or mortgage it, provided you maintain a €500,000 investment, kept free of encumbrances.

All EU residents and all non-Europeans that apply for a residence visa (golden visa or otherwise) may apply to have the status of non-habitual resident for tax purposes (NHR). The procedure is simple and inexpensive. For a ten-year period an NHR is exempt from taxation on most foreign-sourced income, such as dividends, interests, royalties, wages and pensions.

They also benefit from reduced taxation on the country of origin (typically, bilateral Organisation for Economic Co-operation and Development (OECD) tax treaties limit the taxation of non-residents from five per cent to 15 per cent), and taxation on Portuguese-based salaries or self-employed income for selected activities is capped at a 20 per cent flat rate. Portuguese golden visas and the NHR regime are much more favourable than comparable regimes available in other European countries because there is no minimum tax levy, and Portugal ranks highly in security (third-safest country in the world) and cost of living for expatriates. Lisbon ranks 137th in the list of the most expensive cities in the world.[4]

Notes

1 Association of Portuguese Real Estate Professionals and Companies.
2 Tourism Association of Lisbon.
3 See n 1 above.
4 Mercer Portugal.

PORTUGAL

The Portuguese short-term rental market: challenges and risks

André Miranda
Miranda e Associados, Lisbon
andremiranda@am-associados.pt

Background

Underpinned by the sharing economy, the rise of the short-term rental market has been one of the major business success stories in Portugal in recent years. This success follows a strong and sustainable increase of overall tourism in Portugal, with a high level of touristic accommodation occupancy rates throughout the year, especially in Lisbon, Oporto and the Algarve, as well as in the Azores and Madeira islands. In fact, and unsurprisingly, tourism already represents 17 per cent of Portugal's gross domestic product.

Portugal benefits from a modern and simplified legal framework applicable across the country. Pursuant to Decree-Law No 128/2014, of 29 August 2014, which establishes the short-term rental framework, residential homeowners are required to register their properties with the local municipality prior to leasing out their properties. This means that no administrative licensing is required besides general compliance with fire and other safety rules. Property owners are allowed to rent their properties for an unlimited number of nights per year.