

# VCA

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## HOT TOPIC ROUNDTABLE - RECENT DEVELOPMENTS IN PORTUGUESE LEGISLATION CONCERNING IMMIGRATION AND TAXATION OF NHR

### GOLDEN VISAS

The Portuguese Parliament approved its 2020 budget, which includes an **authorization for the Government to amend the current investment requirements of ARI** (Residency Authorization for Investment Activity), better known as the Portuguese **Golden Visa program**.

The leader of the Socialist Bench declared that the purpose of this change is to **remove pressure in the metropolitan areas of Lisbon and Oporto** and to drive foreigner investment toward the country's interior and the autonomous regions of Madeira and Azores.

To avoid jeopardizing investments that were or are being negotiated in the current year of 2020, the Deputy Secretary of State to the Prime Minister stated that the new changes to the Golden Visa requirements would only come into force in 2021.

Given the above, real estate brokers, property associations and financial advisors, are heavily promoting real estate investments in Lisbon and Oporto for this year of 2020 once it will be the last opportunity for GV applicants to apply for residency by investing in the main cities of Portugal.

It is still very unclear what the new law will provide, what is known, as for today, is the following:

- > **Real estate investments in Lisbon and Oporto will not be eligible** to request Portuguese residency;
- > **The global amount of the real estate investment will increase** in its two categories, namely in the regular real estate route and in the rehabilitation route;
- > **The remaining investment options** such as job creation, investment in funds, bank account deposits, incorporation of a company, investment in research activities, investment in real estate in the interior of Portugal, and so on, **will remain in force**.  
Nevertheless, the details of said amends and their scope of application will only be known after the drafting of the new law.

The Portuguese Golden Visa program remains one of the most popular CBI (citizenship by investment) in the world for its affordable investment prices, benefits granted to card holders (reduced tax rates for instance), free national health system, social security, good education and access to Schengen area and 185 visa free countries.

**Golden visa card holders will remain entitled to apply to permanent residence and citizenship after the program ends, at year 5.**

### NON-HABITUAL RESIDENTS

After years of international pressure, the Portuguese government is reducing the tax benefits of the highly favourable non-habitual residents (NHR) tax regime.

Changes approved by the Portuguese Parliament:

- > **Foreign pensions received by NHR are now subject to a flat rate of 10%** (tax exempted until now);
- > The new rules also broaden the definition of income, previously treated as salary, which can benefit from the 10% rate - **the 10% taxation will also cover pensions** (qualifying as such) **from life insurance, pension funds and retirement savings plans**, even if the capital received is not previously taxed (i.e., not taxed at the time of the contributions made);
- > **Effective taxation in the source country** on the **self-employment income** (if derived from high value-added activities) and **Labour income sourced outside Portugal**, will be required to be **tax exempt in Portugal**;
- > NHRs acquiring the status before the law comes into force would benefit under the existing rules. This means **individuals already benefiting from the status will keep in full their current benefits until the end of the ten-year period**.

These changes also open the possibility of applying under the existing rules if, at the date of entry into force of the new law:

- > The NHR application has been submitted and is still pending; or
- > The applicant can be considered as a tax resident for tax purposes and if this applicant submits the NHR application on or before 31st March 2020 (for the tax year 2019) or before 31st March 2021 (for the tax year 2020).

While less beneficial than zero tax, a 10% tax on foreign pension income is still lower than that charged in many other countries and is a significant reduction on the usual Portuguese income tax rates of 14.5% to 48%. NHR Portuguese tax regime still offers many advantages for a period of ten years:

- > **A 20% special flat tax rate** applies to **labour and self-employment income sourced in Portugal** if derived from high value added activities;
- > Labour and self-employment income sourced outside Portugal is not subjected to taxation in Portugal if taxed in the sourced country;
- > **Zero tax on interests, dividends, royalties and capital gains** sourced outside Portugal;
- > Interests, dividends royalties and capital gains originated in other countries, if taxed in those countries, will be at a reduced tax ranging from 5% to 15% the NHR benefiting from tax treaties with Portugal.