PORTUGAL

Joao Valadas Coriel

Managing Partner, Valadas Coriel & Associados

+351 211 625 700
joao.coriel@valadascoriel.com
valadascoriel.com
irglobal.com/advisor/joao-valadas-coriel

VALADAS CORIEL & ASSOCIADOS

João Valadas Coriel co-founded Valadas Coriel & Associados (VCA) in 2001. Currently managing partner, he coordinates across all VCA departments. His expertise and decisiveness are sought to break deadlocks, close deals and generally to get things to the next level. He comes across as a solution-minded savvy lawyer. He has worked on many transactions and is a trusted adviser to many private clients, family offices, foundations and corporations.

He excels in leading teams and participates frequently as a speaker at workshops, seminars and conferences in his practice areas. João is also qualified as an International Arbitrator by the CIArb of London and as a tax expert by ISEG-Lisbon School of Economics and Management. João writes for national newspapers and international organisations about developments in the law, its impact on the economy and society at large and about the future of the law profession.

Tell us about Valadas Coriel & Associados

Valadas Coriel & Associados (VCA) has an energetic team of partners and associates who combine experience, expertise and innovation in dispute resolution, labour, real estate, corporate and tax.

VCA has also a strong practice focused on: private clients and the art world, assisting individuals investing or relocating to Portugal. The firm works in litigation matters for the largest Portuguese listed companies on a permanent basis.

The dynamic, yet informal work environment of VCA has attracted skilful lawyers from major law firms and 'big four' audit firms. The IR Global network and other 'best friends' agreements allow VCA to offer resources and expertise in Portugal and in other 155 jurisdictions. VCA handles each case as a project, a battle to be fought and won through shrewdness, strategy, specific and measurable targets.

QUESTION 1 — TAX

What issues determine tax liability in your jurisdiction – for instance, residence and citizenship – and in which contexts are they relevant?

Tax liability in Portugal is based only on residency status, regardless of nationality.

An individual is deemed to be a tax resident in Portugal when, in the relevant year, he remained in Portugal more than 183 days, consecutive or otherwise; or having stayed for a shorter period of time he has a permanent domicile in such conditions that demonstrates an intention to maintain it as his habitual residence. In practical terms, this means that he must either own or rent a property in Portugal.

Portuguese tax resident individuals are liable to Portuguese tax on their worldwide income.

Portugal has an attractive tax regime for those who become Portuguese tax residents (Non-Habitual Resident) that may be applicable to any individual that was not tax resident in Portugal in the preceding five years. NHR tax regime offers many advantages for a fix period of 10 years:

a) A 20% special flat tax rate for labour and self-employment income sourced in Portugal if derived from high value-added activities

b) Labour income sourced outside Portugal is not subject to taxation in Portugal if taxed in the sourced country

c) Self-employment income from a high value activity sourced outside Portugal is not subject to taxation in Portugal provided that may be taxed in the source country under a tax treaty

d) Zero tax on interests, dividends, royalties sourced outside Portugal, and if taxed in the source countries the tax so charged shall not exceed the reduced rates established in the tax treaties, usually of 5%, 10% or 15%

e) Foreign pensions received by NHR, including pension schemes with capital or lump sum payments are subjected to a special flat rate of 10%.

Non-tax residents in Portugal are only liable to Portuguese tax on their Portuguese sourced income, like real estate income or capital gains.

QUESTION 2 — SUCCESSION

What is the basis of the inheritance tax in your jurisdiction and the main characteristics of the succession regime?

In Portugal there is no Inheritance or Gift Tax between spouses, ascendants and descendants up to grandsons or great grandsons or grandfathers or great grandfathers.

Although there is no Inheritance Tax, the exemption only applies to the value of the inheritance as ascertained at the time of the passing of the deceased. Therefore, it is important to determine the exact value of the inheritance at the time of the benefactor's death for the purposes of possible income or capital gains that might be generated after the inheritance.

Other members of the family, friends or strangers are levied at a flat 10% stamp tax either on inheritance or on gifts.

The Portuguese succession legal framework has forced heirship rules and in principle you can only freely dispose of one third of your estate if you have a spouse and/or descendants.

However, a non-Portuguese citizen or even a Portuguese citizen with double or multiple nationalities might choose to establish a will according to the laws of the country of their nationality.

QUESTION 3 — TRUSTS

Are trusts recognised in your jurisdiction and what alternative structures are available?

Portuguese law does not have a legal trust regime. Trusts held by individuals and family offices require adaptation or restructuring.

Everything from the powers of the settler, trustees and beneficiaries to revocability and liquidation need to be assessed from the Portuguese law perspective. Income distributed through trusts must also be properly assessed to avoid Portuguese income tax.

The Portuguese Government has announced its intention to draft a law regulating the use of trusts in Portugal.

QUESTION 4 — IMMIGRATION

What immigration options are available to HNW's wishing to relocate to your jurisdiction?

Portugal is a welcoming country and provides several types of visas to grant residence.

Most commonly:

- Golden Visa Program
- D2 visa, also known as the entrepreneur visa
- D7 visa, also known as the self-sufficient visa.

In the Golden Visa Program, the applicant is required to choose from eight investment options. The minimum investment in real estate starts at €280,000 for a property to be renovated in a low-density area; €350,000 for a property to be renovated in a high-density area; and €500,000 for a regular and ready to use property. Investments in alternative funds start at €350,000 and is becoming increasingly popular. A Golden Visa is valid firstly for two years, renewed twice for two periods of two years each, requiring a minimum stay of seven days per year.

D2 visa is appropriate for those willing to become residents and who are willing to either invest in Portugal (in an existing company, a specific business, etc.), perform a professional activity through the incorporation of a company, or perform a professional activity as a self-employed worker. To keep the residence, a self-employed worker will have to earn at least the equal to a monthly minimum salary. The difference between this visa and the Golden Visa is the minimum stay requirement. Applicants will have to live at least four months per year in Portugal provided they are not absent from Portugal more than six months in a row or eight interpolated months per year.

D7 visa is the easiest, cheapest and quickest route to apply for Portuguese residence. To apply, applicants must have personal revenue from movable and immovable property, intellectual or financial assets. Given this, should the applicant hold bank account deposits, receives rents or dividends, pensions, or any other kind of income generated abroad, he/she will be eligible. According to Portuguese law, applicants for the D7 visa must provide proof of sufficient means corresponding to a monthly net equal to the Portuguese minimum salary, currently €635,000. The minimum stay of the D7 visa is the same as the D2 visa, namely four months per year and both are valid for a first period of two years renewed for periods of three.

Top Tips – What are the most common tax relief options available in Portugal?

- There is no Gift or Inheritance Tax between spouses, ascendants or descendants. Other members of the family, friends or strangers are levied at a 10% stamp tax
- There is no Wealth Tax or tax on large estates or fortunes. However, bank accounts held abroad must be disclosed in the annual income tax return (that information is also communicated under CRS rules)
- There is no capital gains on the sale of second-hand valuable goods: art, classic cars and other collectibles, unless for professional traders
- There is no taxation on income or gains from crypto currencies unless for professional trader
- Real estate tax reliefs when investing in properties in Portugal related with urban rehabilitation or urban renewal such as benefits under Property Transfer Tax (IMT), Property Tax (IMI) and Personal Income Tax (IRS). Reduced rates for real estate, dividends and interests sourced in Portugal.