

## “Mais Habitação” - The final measures and their Consequences

### 1. Advocacy for Affordable Housing

As anticipated in the preliminary text of the proposed law, beneficiaries may leverage, in addition to the incentives prescribed by tax legislation, the following support options for the encouragement of affordable renting:

#### a. Funding Stream

- Creation of a funding stream with mutual assurance and interest rate deductions for projects in the affordable housing sector, especially for construction or rehabilitation, encompassing the purchase of properties for subsequent leasing at a cumulative total of €250,000,000.00.
- This funding stream is initiated by Banco Português de Fomento, S.A., within 45 days of the law coming into effect or, if later, on the date the legally demanded conditions are approved.
- Lease to public entities for further subletting to applicants who fulfil the eligibility criteria within the context of the programs promoted by these entities in the affordable housing sector is permitted.

#### b. Transfer of Public Land and Buildings

- The Government will initiate an identification process of public assets for the transfer of public land and buildings aiming to allocate lands or public buildings for construction, conversion, or rehabilitation of properties for affordable leasing.
- This transfer will be executed through a surface right for a maximum period of 90 years, not allowing for the full property rights to be conveyed to its beneficiaries.
- Constructions promoted under the Affordable Housing Program are allocated to affordable renting for a period of 90 years, renewable when there is a transfer of surface rights, and for 25 years. After this leasing period, in the event of a sale, municipalities and the IHRU I.P. have pre-emptive rights in acquiring the housing units developed under this support scheme.

### 2. New Generation of Cooperative Housing Advocacy

- The "pilot projects" to be integrated into the new generation of cooperatives for affordable housing promotion will be initiated through a protocol between territorially competent cooperative sector entities and the IHRU, I.P., and, when possible, the territorially competent municipality and parish council representative entities should participate.
- Protocols established under the aforementioned measure shall presuppose compliance with the following requirements:
  - › Identification of public properties to be transferred.

- › The available financing instruments to be put in place.
  - › Necessary execution measures by the start of pilot projects.
- The key principles of the said "pilot projects" will be as follows:
- › Construction should proceed from the use of a collective and indivisible plot or building.
  - › It should be based on a transfer of surface rights not exceeding 75 years, after which the plot and building revert to the state.
  - › It should adhere to a non-profit economic model.
  - › Projects should be developed in an open, democratic, and intergenerational manner, emphasizing collaborative housing models, and shared and/or common organization spaces.
  - › It should encourage innovative and sustainable project and construction models.
  - › It should facilitate, where possible, non-motorized mobility for its residents.
  - › It should promote replicability and cooperation between cooperative projects.

### 3. Incentives for Residential Renting

#### a. Funding Stream for Coercive Works

The approval of a funding stream is sustained, offering mutual guarantee and interest rate bonus, in support of municipalities executing coercive works, with a maximum global amount of €150,000,000.00.

#### b. Harmonization of Vacant Buildings Regulation

For the purpose of defining a building as vacant, telecommunications and gas, electricity, and water distribution companies are required to submit an updated list of absent supply contracts, or low consumption records for each urban building or autonomous fraction, to municipalities by October 1 of each year, via electronic communication or other digital medium. This listing must necessarily include the cadastral identification of each building.

#### c. Acquisition of Properties by Public Entities

Onerous acquisition of property rights or other real rights on real estate for affordable renting by public entities, as well as the acquisition, in whole or in part, of controlled-cost housing developments. This regime is applicable to renting for subsequent residential subletting.

### 4. Mobilization of Vacant Properties

#### a. Addition to the Legal Regime of Urbanization and Building (LRUB)

##### — Duty of Use

Buildings shall be subject to periodic inspections either officially or at the request of any interested party, by the respective municipal chamber, regarding habitability and usage conditions. Additionally, it must verify the adherence to legal norms related to habitability

conditions that constitute irregular situations of renting or subletting, and if there are irregular situations, the competent City Council summons the owner to restore authorized usage.

— Forced Leasing of Vacant Residences

- › A property is considered vacant if classified as such by the municipality, in cases where the property has not been used (after notification to do so), after a 2-year period, and whenever that property is located in territories that are not of low density. After two years, the municipality sends the respective owner:
  - **Notification of the duty of preservation**, promoting the execution of necessary works, in case of non-compliance with that notification, or
  - **Notification of the duty to use the autonomous fraction**, optionally presenting a rental proposal.
- › In cases where the notification of the duty to use the fraction has been made and the owner refuses the proposal or does not pronounce within 90 days of its reception, and the property remains vacant, the municipality can, exceptionally and supplementally, proceed to force the lease of the property. The IHRU can replace the municipality whenever the latter does not proceed with the property lease, and this does not need conservation works. The Autonomous Regions are exempt from these measures.

## 5. Enhancement of Safety in the Rental Market

### a. Protection of Tenants in New Contracts

- The initial rent of new housing lease agreements that concern Properties to which lease agreements have been in force in the five years preceding the enforcement of this law cannot exceed the amount of the last rent practiced on the same property in the previous contract, applying a coefficient of 1.02.
- If the legally permitted updates were not made in the previous contract, the initial rent value of the new contract can still have the annual update coefficient in force applied, as long as no more than three years have passed since the date it would have initially been possible to apply it. **The coefficient to be considered for the year 2023 is 1.0543.**
- In the case of properties that undergo deep remodelling or restoration works, duly certified by the City Council, the initial rent of the new lease agreements can include the amount corresponding to the expenses incurred by the landlord, up to an annual limit of 15%.

### b. Amendments to the New Urban Lease Regime

- Regarding rents, charges, or expenses overdue for a period equal to or greater than two months, and if the amount is not paid or deposited, the tenant is notified to make the payment or deposit within 10 days, along with the due indemnity amount. The tenant must submit proof of such payment or deposit to the case files. If the tenant fails to comply, the landlord can request immediate eviction.
- In the event of a delay in rent payment for more than eight days, it becomes permissible to resort to the special eviction procedure if communication to terminate the contract and the grounds for it have failed to reach the tenant.

— The Tenant and Landlord Counter (BAS) is established within the Directorate-General for the Administration of Justice. Its purpose is to handle the special eviction procedure and injunctions related to rent matters. The BAS has exclusive jurisdiction over the procedure throughout the country, and applications for rent-related injunctions will be submitted to the BAS, transferring the authority from the BNA in cases of non-payment of rent due to socially justifiable reasons.

**c. Addition to the New Urban Lease Regime**

— Support and protection in eviction procedure situations

The eviction procedure notification will now include information about public services available to tenants without alternative housing. Additionally, a report on the tenant's social situation will be prepared by social security services in collaboration with the court.

**d. Payment guarantee**

When a lease termination for housing purposes is due to the tenant's default, the State will assume the payment of rents. The maximum monthly payment will be 1,5 times the Guaranteed Minimum Monthly Remuneration, with a total limit of nine times the Guaranteed Minimum Monthly Remuneration. The State will be automatically subrogated to the applicant's rights and can exercise them through tax enforcement. Depending on the tenant's social situation, the State may collect the debt using legally provided means or, in collaboration with social security, provide support to families in finding stable housing alternatives.

## 6. New supports

**a. "Porta 65 Jovem"**

The Porta 65 Jovem program, which provides financial support for renting by young people, whether alone, in households, or cohabiting, is expected to be applicable from June 2023. It will no longer require permanent housing to match the tax address.

**b. "Porta 65 +"**

This is a permanent support program without age requirements, aimed at vulnerable families with income shortfalls of more than 20% or single-parent families. It will operate continuously on the Porta 65 platform without specific application periods or calls for tenders.

**c. Protection for tenants with old contracts**

The transition to the NRAU (New Urban Lease Regulation) will not apply to lease contracts concluded before 1990 with the compensation of landlords, which will be presented by July 2023, through the tax route, allocation of subsidies or fixing of a maximum amount of rent to be charged and that the regime enters into force in January 2024.

**d. State as Lessee of properties for the middle class**

Properties will be made available for rent for a minimum period of three years, including vacant ones that are immediately habitable. These properties will be offered to private middle-class households experiencing a drop in income of more than 20%. The monthly rent price paid by the state to the property owner will be freely established between landlords and IHRU, up to a

maximum value 30% higher than the general rent price limits. The determination will consider the property's typology and municipality and will be applicable to the PAA.

e. **Registration of the Lease Agreement by the Lessee**

Tenants can now register their lease agreement with the AT within two months if the landlord fails to do so.

f. **Transition of Local Accommodation Establishments to the rental market**

An exemption is created for property income earned until December 31, 2029, in terms of IRS and IRC. This exemption applies if the property assigned to the local accommodation activity is transferred to the housing rental market. The local accommodation establishment must have been registered by December 31, 2022, and the lease agreement must be signed by December 31, 2024, and registered on the finance portal.

## 7. Amendment to the Legal Regime for the Operation of Local Accommodation Establishments

- Registration of local accommodation establishments in autonomous fractions: If a local accommodation establishment is installed in an autonomous fraction of a building governed by the horizontal property regime intended for housing, **its registration must be preceded by a condominium decision allowing its use for purposes other than local accommodation.**
- Changes to the documentation required for Prior Communication with Deadline:
  - › Introduction of the "Seasonality Period": If the property is a permanent dwelling used for temporary local accommodation for a period not exceeding 120 days.
  - › Minutes of the Condominium Assembly authorizing the installation of hostels and local accommodation in autonomous fractions of a building governed by horizontal property rules intended for housing.
- Transferability of the Local Accommodation registration number: The registration number is personal and non-transferable, even if owned by a legal entity. Furthermore, any transfer of the share capital of the legal entity holding the registration, regardless of the percentage, **will result in the expiry of the opening title to the public.**
- The new role of the condominium in Local Accommodation: If the local accommodation activity takes place in an autonomous fraction of a building or part of an urban building with independent use, **the condominium owners' meeting, with a resolution of at least two-thirds of the permillage of the building, may oppose the operation of local accommodation in that fraction.** Exceptions include when the executive title explicitly allows the use of the fraction for local accommodation or when there is a condominium owners' meeting resolution authorizing such use.
- Cancellation of the Local Accommodation Registration: When considering the cancellation of the operating title due to a condominium meeting resolution, **the property cannot be operated as local accommodation until the condominium meeting decides otherwise.** To cancel the registration, the

condominium owners' meeting must inform the competent municipal council of its decision, which will take effect within 60 days after the resolution is sent. **The cancellation of the registration results in the immediate cessation of the establishment's operation.**

## 8. Addition to the Legal Regime for the Operation of Local Accommodation Establishments

- Validity of Local Accommodation establishment registration: The registration shall remain valid for a period of **5 (five) years** and can be renewed for equal periods. The first renewal shall be counted from the date of issuance of the public opening title.
- Suspension of new registrations for Local Accommodation establishments: The issuance of new registrations for local accommodation, including flats and establishments and accommodation establishments integrated within an autonomous fraction of a building, **is suspended throughout the national territory, except for inland territories.**
- Review of local accommodation registrations: Local accommodation registrations issued at the time of the law's entry into force shall undergo a review in 2030, and subsequent reviews shall be renewable for five years. However, exceptions to this rule apply to local accommodation establishments that serve as a real guarantee for loan contracts entered into before February 16<sup>th</sup> 2023, which have not been fully repaid by December 31<sup>st</sup> 2029. The first review for such establishments shall only occur after full repayment, as initially contracted.
- Expiry of inactive registrations: Within two months of the law's entry into force, holders of local accommodation registrations are required to provide proof of the ongoing operation of their activity by submitting a tax return. They must also communicate the effectiveness of their exercise through the RNAL platform (National Registry of Local Accommodation), using the Single Electronic Counter.
- The rule of expiry of inactive registrations does not apply to the operation of local accommodation units in the owner's permanent housing, provided that such operation does not exceed 120 days per year.

## 9. Residence permits for investment ("Golden Visa")

- Following the enactment of this legislation, no new applications for residence permits for investment activities will be accepted for the following investment activities:
  - › Investment activity involving the transfer of capital equal to or greater than €1.5 million.
  - › Investment activity involving the acquisition of immovable property with a value equal to or greater than €500,000.00 (five hundred thousand euros).

- › Acquisition of real estate that has been completed for at least 30 years or is located in an urban rehabilitation area, with rehabilitation works carried out on the acquired property totalling €350,000.00 (three hundred fifty thousand euros) or more.
- The above provision does not affect the possibility of renewing residence permits for investment activities granted under the legal regime applicable before the enactment of this legislation.
- This provision also applies to individuals holding residence permits for investment activities and their family members who meet the requirements stated in Article 80 of Law no. 23/2007, dated July 4, in its current version, and who intend to apply for the granting of a residence permit for permanent investment activity. However, exceptions apply to the provisions of paragraph 2(b) and paragraphs 3 and 4 of Article 85 of the aforementioned law.
- Similarly, the above provisions apply to the granting or renewal of residence permits for family reunification.
- Regarding the renewal, it entails the conversion of the residence permit into a residence permit for entrepreneurial immigrants. Holders of such permits must comply with a minimum stay period of seven consecutive or intermittent days in the first year and fourteen consecutive or intermittent days in subsequent two-year periods.

## 10. Pending applications for residence authorization for investment activity ("Golden Visa")

- Applications for the granting and renewal of residence permits for investment activity, as mentioned in the paragraphs above, that are awaiting a decision by the competent authorities at the time of the law's entry into force, shall remain valid.
- The above also applies to applications that are pending prior control procedures in the City Council at the time of the law's entry into force.
- Such renewal applications shall be converted from a residence permit for investment into a residence permit for entrepreneurial immigrants. The competent authorities will assess the suitability of the investment for the respective entrepreneurial project.

## 11. Amendments to the Legal Regime for Entry, Stay, Exit, and Removal of Foreigners from the National Territory

- The following investment activities are still considered permissible under this legislation:
  - › Transfer of capital equal to or greater than €500,000.00 (five hundred thousand euros) for acquiring shares in non-real estate collective investment undertakings incorporated under

Portuguese law. The investment must have a maturity period of at least five years, and at least 60% of the investment value must be realized in commercial companies based in the national territory.

- › Transfer of capital equal to or greater than €500,000.00 (five hundred thousand euros) for incorporating a commercial company with its registered office in the national territory, combined with the creation of five permanent jobs. Alternatively, the transfer can be used to increase the share capital of an already incorporated commercial company with its registered office in the national territory, with the creation of at least five permanent jobs or the maintenance of at least ten jobs, including a minimum of five permanent jobs, for a minimum period of three years.
- The minimum investment amount or quantitative requirement for investment activities **may be reduced by 20% when carried out in low-density territories** for the following investment activities:
- › Creation of at least 10 jobs.
  - › Transfer of capital equal to or greater than €500,000.00 (five hundred thousand euros) for research activities conducted by public or private scientific research institutions integrated into the national scientific and technological system.
  - › Transfer of capital equal to or greater than €250,000.00 (two hundred fifty thousand euros) for investment or support for artistic production, recovery, or maintenance of national cultural heritage. This investment is made through central and peripheral direct administration services, public institutes, entities in the public business sector, public foundations, private foundations with public utility status, intermunicipal entities, entities in the local business sector, municipal associative entities, and public cultural associations involved in artistic production, recovery, or maintenance of national cultural heritage.
- The investment activities mentioned above require evaluation every two years to assess their impact on scientific and cultural activities, as well as their contribution to foreign investment and job creation. **At no time may these investments be directed, directly or indirectly, towards property investment.**
- Under this amendment, residence permits may be refused, renewed, or revoked for third-country nationals who are subject to EU restrictive measures due to security breaches, immigration violations, human rights violations, or non-compliance with EU laws and regulations.

## 12. Tax changes

### a. Municipal Property Tax (IMI)

- The fixed deduction amounts for the IMI rate applicable to the taxpayer's own permanent residence or that of their household, which is effectively used for such purpose, are increased. The increased fixed deduction amounts for Municipal Property Tax (IMI) are as follows: EUR 30



when there is one dependent, EUR 70 when there are two dependents, and EUR 149 when there are three or more dependents.

- The rates for urban buildings or autonomous fractions that have been vacant for more than one year, buildings in ruins, and land for construction located in areas designated for housing use in municipal spatial planning plans, particularly in areas of urban pressure, are increased.
- Urban buildings or autonomous fractions acquired, rehabilitated, or built for allocation to the Rental Support Programme may benefit from IMI exemption.
- Urban buildings classified as "housing under the Rental Support Programme" are exempt from additional IMI.

#### **b. Municipal Property Transfer Tax (IMT)**

- Acquisitions of land for construction intended for the construction of residential properties are exempt from IMT, provided that the majority of the land is allocated to the Rental Support Programme, among other requirements.
- Urban buildings or autonomous fractions acquired, rehabilitated, or built for use in the Rental Support Programme may benefit from IMT exemption.
- The IMT exemption also applies to properties acquired, rehabilitated, or built for rental purposes under housing programs promoted by entities with housing competence in the Autonomous Regions.
- The IMT exemption for the acquisition of real estate for resale now requires that the property be sold within a maximum period of one year, instead of the current three years.

#### **c. Personal Income Tax (IRS)**

- Reduction of the personal income tax rate applied to income from long-term housing lease contracts, based on the contract duration:
  - › Up to 5 years: 25%
  - › Between 5 and 10 years: 15% (with a 2% reduction for each contract renewal, limited to a total reduction of 10% for contract renewals)
  - › Between 10 and 20 years: 10%
  - › More than 20 years: 5% (applies to property income from durable housing contracts as well)
- Exemption from taxation of rental income in the following cases:
  - › Contracts falling under the Rental Support Programme
  - › Contracts concluded before 1990.
  - › Contracts resulting from the conversion of local accommodation into residential leases until the end of 2024.
- Rent insurance is now deductible from gross income under category F (Property Income).
- Capital gains from the sale of real estate to the State, Autonomous Regions, and Municipalities are exempt from taxation, with exceptions for gains realized by residents in tax havens and gains resulting from pre-emption rights.
- Capital gains from the sale of land for construction or residential properties (excluding own and permanent housing) are exempt from taxation if applied towards the amortization of credit for own and permanent housing of the owner or their descendants. If the capital gain exceeds the value of the loan, the remainder is subject to taxation under general terms.

- Additional requirements are added to the existing cumulative requirements stated in Article 10/5 CIRS for the exclusion from income tax (IRS) of gains from the transfer of real estate intended for the taxpayer's own permanent residence or that of their household. The added requirements are:
  - › The property transferred is intended for the taxpayer's own permanent home or that of their household, as evidenced by the respective tax residence, in the 24 months prior to the date of the transfer.
  - › The taxpayer has not benefitted from this exclusion regime in the year the gains were obtained or in the three previous years, unless the taxpayer can prove, in the liquidation procedure, that the non-observance of this condition was due to exceptional circumstances.
- Income from units of investment funds shall no longer be subject to IRS withholding tax of 10%.

**d. Corporate Income Tax (IRC)**

- Income obtained by investment funds established between 2008 and 2013, with assets in real estate subject to urban rehabilitation, will no longer be exempt from CIT.
- Income from investment fund units is no longer subject to a 10% IRC withholding tax.
- Real estate investment funds and real estate investment companies now qualify for the tax reduction incentive when "at least 75% of their assets consist of real estate for affordable housing rental."

**e. Stamp Duty (IS)**

Stamp Duty is exempted on housing lease contracts under the Rental Support Programme, as well as contracts entered into under public housing programs promoted by entities with housing competence in the autonomous regions.

**f. Creation of an extraordinary contribution**

An extraordinary contribution on local accommodation is established at a rate of 15%, which will be allocated to the Institute of Housing and Urban Rehabilitation (IHRU) to finance affordable housing policies. The contribution amount may vary based on operating income, rent trends, and the prevalence of Local Accommodation in the area.