

LEGAL UPDATE

Rental housing: New exemption on property income

Article 74-A of the Tax Benefits Code

I. More Housing Programme

In October 2023, the previous Government approved Law 56/2023, which introduced a programme called “More Housing” (“*Mais Habitação*”), containing various tax, credit and market measures to facilitate access to housing, including measures to increase taxes on local accommodation. Notwithstanding several measures that have since been repealed, several remain, such as the temporary exemption from personal income tax (“IRS”) and corporate income tax (“IRC”) of properties transferred from local accommodation.

II. Taxation of renting income (normal regime)

As a rule, rental income is taxed separately at a rate of 25%, unless the taxpayer chooses aggregating it. In this case, the rents are added to the rest of the income and are subject to the general IRS rates (between 13.25% and 48%).

In terms of IRC, they are subject to withholding tax at the rate of 25% and then taxed on the company's taxable profit at the rate of 21%.

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III. New exemption on rental income

What is it?

It applies to rental income arising from a housing contract when:

- a) The real estate is used as a local accommodation establishment until 31/12/2022 (i.e., if the licence ceased before 31/12/2022, it no longer benefits from the exemption); and
- b) A rental contract for main and permanent housing is signed and registered on the Tax Portal between 01/01/2023 and 31/12/2024.

A “transfer” is herein understood to be when a real estate that generates income, in the context of local accommodation, ceases to generate such income and begins to generate rental income resulting from the conclusion of a rental contract for main and permanent housing.

We therefore interpret this as an objective exemption, i.e., what matters is that the real estate generates rental income after it has been removed from the local accommodation activity.

What is it applicable to?

The exemption applies to rental income taxed in categories F (rental income) or B (professional or business income), depending on the taxpayer’s choice.

The law does not require the cessation of category B activity, and local accommodation in other properties can continue.

How to benefit from this exemption?

The contract must be initiated and registered on the Tax Portal in 2024, and the real estate must also be declared to have been removed from the taxpayer's business assets (by filling in Annex B and Annex F of the 2024 IRS Model 3 in 2025).

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The exemption only applies to rentals for main and permanent residence.

Until when does it last?

It applies to rental income earned up to 31/12/2029 from contracts entered into between 01/01/2023 and 31/12/2024 (and their automatic renewals) up to 31/12/2029, but it will not benefit a second contract with a new tenant.

Our Contributors:



Tirso Olazábal
Partner
tirso.olazabal@mdme.com
Visit Profile



Ana Pinto Moraes
Counsel
ana.moraes@mdme.com
Visit Profile



Cátia Morgado Ascenso
Senior Associate
catia.ascenso@mdme.com
Visit Profile