



STATE BUDGET 2011: TAX AMENDMENTS

APPROVAL AND PUBLICATION

On 26 November the Portuguese Parliament approved the 2011 State Budget, which was signed into law by the President of the Republic on 30 December and published in the Portuguese official gazette, *Diário da República*, no. 253, supplement, series 1 of 31 December 2010.

ENTRY INTO FORCE

The 2011 State Budget Law, including all its amendments, updates and legislative authorisations on tax issues came into force on 1 January 2011.

I. INTRODUCTION

II. PERSONAL INCOME TAX (IRS)

SPORTS TRAINING SCHOLARSHIPS

The specified limit for the tax exemption on sports training scholarships is now indexed to the value of the Social Support Index (IAS); (in accordance with order in council no. 1458/2009, of 31 December, the Social Support Index (IAS) in 2010 is €419.22). However, on a transitory basis, the aforementioned index will be set at the amount of the minimum monthly wage guaranteed in 2010 (€475) until the Social Support Index (IAS) attains that amount. Accordingly, the respective limit in 2011 will be €2375.

IDENTIFICATION OF DEPENDENTS FOR TAX PURPOSES

Identification of dependents in the Personal Income Tax return (IRS) by using the taxpayer number is now obligatory for application of tax benefits and deductions from tax liabilities.

CONCEITO DE DEPENDENTE

Children, adopted persons and stepchildren, of majority age, aged between 18 and 25, who, in the respective tax year, carry out military service or civic service, cease to be considered as dependents and therefore cease to be included within the taxpayer's household.

HOME EXPENSES

The specified limit on home expenses (currently indexed to the minimum monthly wage) is now indexed to the Social Support Index (IAS), in relation to the total income received by the taxpayer's ascendants and in-laws (up to the 3rd degree of family relations) for the purposes of determining the maximum amount of home expenses that may be deducted from the tax liability. However, on a transitory basis, the amount of the minimum monthly wage guaranteed in 2010 should be considered to be the respective limit, until the Social Support Index (IAS) attains this amount.

SPECIFIC DEDUCTION IN EMPLOYMENT

The specific deduction for income from employment (Category A), is now indexed to the amount of the Social Support Index (IAS), but, on a transitory basis, it will continue to be indexed to the amount of the minimum monthly wage guaranteed in 2010 until the Social Support Index (IAS) attains this amount. Accordingly, the limit of this specific deduction will be €4104 for 2011, unless Social Security contributions are higher. The indicated amount may be increased to €4275, when the difference results

STATE BUDGET 2011: TAX AMENDMENTS TAX AMENDMENTS

from subscriptions paid to professional associations or non-reimbursed amounts paid for professional training expenses.

REAL-ESTATE CAPITAL GAINS

It is clarified that, for the purposes of calculation of capital gains from the sale of real-estate assets, the purchase price to be taken into consideration in the case of real-estate assets purchased through exercise of a purchase option right at the end of the validity period of a financing leasing contract will be that corresponding to the sum of the capital included in the lease amounts paid during the validity period of the aforementioned contract and the amount paid at the time of exercising the option right, excluding any expenses.

SPECIFIC DEDUCTION IN PENSIONS

Obligatory contributions to social protection schemes and legal health sub-systems may now be deducted from gross income earned from pensions (category H) only in the part that exceeds deductions of €6000, or a reduced amount for pensions above €22 500 (deduction of such contributions was not previously subject to any limit). In relation to pensions with an annual gross amount in excess of €22 500, the specific deduction of € 6000 is reduced to an amount corresponding to 20% of the difference between the amount of the pension effectively earned and €22 500 (this deduction previously only applied to income in excess of €30 240 and the rate of reduction was 13%).

REPORTING LOSSES

The period for reporting losses in Categories B (business or professional income), F (property income) and G (real-estate capital gains and intellectual or industrial property income), that was previously, five or six years, in function of the respective circumstances, is now reduced to a uniform 4-year period.

BRACKETS AND RATES

The income brackets subject to taxation have been increased by 2.2%, simultaneously complemented by an increase in the general rates of IRS, encompassing a minimum rate of 11.5% and maximum rate of 46.50%, as follows:

2010			2011		
Taxable Income	Rates (percentages)		Taxable Income	Rates (percentages)	
	Normal (A)	Average (B)		Normal (A)	Average (B)
Up to €4.793	11,08	11,080	Up to €4.898	11,50	11,500
From over €4.793 to €7.250	13,58	11,927	From over €4.898 to €7.410	14,00	12,3480
From over €7.250 to €17.979	24,08	19,179	From over €7.410 to €18.375	24,50	19,5990
From over €17.979 to €41.349	34,88	28,053	From over €18.375 to €42.259	35,50	28,5860
From over €41.349 to €59.926	37,38	30,944	From over €42.259 to €61.244	38,00	31,5040
From over €59.926 to €64.623	40,88	31,667	From over €61.244 to €66.045	41,50	32,2310
From over €64.623 to €150.000	42,88	38,049	From over €66.045 to €153.300	43,50	38,6450
More than €150.000	45,88	-	More than €153.300	46,50	-

WITHHOLDING TAXES

Interest and other forms of remuneration from shareholders loans provided by shareholders, together with income due as a result of the fact that shareholders fail to withdraw profits placed at their disposal, currently encompassed by, and obligatorily subject to, general rates of IRS, are now subject to a withholding rate of 21.5%.

REBATES TO EU RESIDENTS

An extension is established to the scope of the framework for total or partial repayment of IRS retained and paid by taxpayers resident in another EU Member State, in relation to expenses which can be duly proven to be necessary in order to obtain the respective income in Portugal, regarding employment, remuneration of members of governing bodies of corporate bodies, income from work on board ships and aircraft, and income from intellectual or industrial property. This rebate should not, however, exceed the total amount of the income in question, or, in the case of income from employment, should not exceed the limitations set for specific deductions.

ACCOUNTS OF IDENTIFIED THIRD PARTIES

Provision is made for the income subject to withholding taxes, when paid or made available in accounts opened in the name of one or more account holders, on behalf

of unidentified third parties, to be taxed via a definitive withholding tax at the rate of 30%. This provision does not encompass situations in which the effective beneficiary is identified, in which case the general rules should apply.

SPECIAL RATES

The rates applying to capital income earned abroad by taxpayers who are fiscal residents in Portugal – and due from non-resident entities without intervention of a paying agent in Portugal – are now harmonised. Such income will now be subject to autonomous taxation at a rate of 21.5%, (instead of the current rate of 20%).

PERSONS WITH A DISABILITY

On a transitory basis, only 90% of total gross income of categories A (income from employment), B (business and professional income) and H (pensions) earned by taxpayers with a disability will be considered for the purposes of IRS in 2011. The portion of income which is thereby exempt from taxation cannot exceed €2500, per income category. The limitations specified for the purposes of deduction from the tax liability for taxpayers with a disability which, until now, have been indexed to the minimum monthly wage, will now be indexed to the Social Support Index (IAS). However, a transitory rule also applies to this index, under the terms of which the amount of the minimum monthly wage guaranteed in 2010 should be considered, until the Social Support Index (IAS) attains this amount.

PENSION PAYMENTS

In relation to pension payments for old-age retirement, the deduction from the tax liability of 25% of the respective pension payment, now only applies if the retirement benefit is guaranteed after 55 years or age and after 5 years duration of the respective contract and that the pension payment is paid by the taxpayer or by third parties, and provided that, in the latter case, such payments have been duly taxed as the taxpayer's income, with a limit of € 65 (in the case of unmarried or separated taxpayers), or € 130 (in the case of married and non-separated taxpayers). The maximum deduction from the tax liability that may be made on the basis of pension payments and 25% of life assurance premiums paid is 15% of the taxable amount.

GENERAL LIMITS ON DEDUCTIONS FROM TAX LIABILITIES

The limits on eligible deductions from tax liabilities, in general, are now indexed to the Social Support Index (IAS). The amount of the minimum guaranteed wage specified in 2010 continues to apply however, until the Social Support Index (IAS) attains this amount.

FISCAL IDENTIFICATION

Deductions from tax liabilities may only be made by taxpayers if they provide fiscal identification of their dependents, ascendants, in-laws or beneficiaries to whom such deductions are related and, also, subject to identification, by means of an invoice issued under legal terms, of the taxpayer or the member of the family household to whom such deductions are related, in all cases that involve an expense.

LIFE ASSURANCE AND PERSONAL ACCIDENTS

Deductions from tax liabilities related to life assurance premiums and personal accidents insurance premiums are eliminated, except for those related to taxpayers with a disability, and to taxpayers with short-term careers. However, the regime remains in force in relation to conditions of redemption and advance payment of personal accidents insurance and life assurance, in relation to which the right to a deduction from the tax liability has been exercised in previous years and, also, in terms of the increased penalty, in the event of payment outside these conditions.

HEALTH INSURANCE, CONTRIBUTIONS TO FRIENDLY SOCIETIES AND PRIVATE SOCIAL SOLIDARITY INSTITUTIONS (IPSS) AND EXPENSES WITH RENEWABLE ENERGIES

Deductions from tax liabilities related to health insurance or contributions to friendly societies or non-profit institutions whose object is health care provision and, also, those related to expenses on renewable energies equipment are now specified within the Tax Benefits Charter (EBF).

MAINTENANCE PAYMENTS

Deduction from the tax liability of amounts related to maintenance payments that the taxpayer is obliged to make as a result of a court order or an agreement recognised under civil law, is now subject to a monthly limit equivalent to 2.5 times the amount

STATE BUDGET 2011: TAX AMENDMENTS TAX AMENDMENTS

HEALTH EXPENSES, EDUCATION, TRAINING AND HOME INVESTMENT AND PROPERTIES EXPENSES

of the Social Support Index (IAS) for each beneficiary; in this case, the amount of the effective Social Support Index (IAS) should be considered, i.e. the applicable monthly limit of €1048.05.

Maximum limits are established from the 7th taxable income bracket upwards (and the Draft Law introduced such limits from the 3rd taxable income bracket upwards), to the totality of deductions from tax liabilities specified for health expenses, education and training expenses, home expenses and property expenses, as follows:

Taxable Income Bracket	Limit
Até Eur. 4.898	no limit
From over Eur. 4.898 to Eur. 7.410	no limit
From over Eur. 7.410 to Eur. 18.375	no limit
From over Eur. 18.375 to Eur. 42.259	no limit
From over Eur. 42.259 to Eur. 61.244	no limit
From over Eur. 61.244 to Eur. 66.045	no limit
From over Eur. 66.045 to Eur. 153.300	1,666% % of taxable income with a limit of Eur. 1.100
More than Eur. 153.300	Eur. 1.100

PENSION FUNDS, PPR, PUBLIC CAPITALISATION REGIME AND OTHER EXPENSES

The sum of eligible deductions from tax liabilities made on account of tax benefits, for example contributions to pension funds and savings-retirement plans (PPR), contributions to the public capitalisation regime, venture capital investors, urban renewal, expenses related to acquisition of renewable energies equipment, donations, health insurance and contributions to friendly societies, will also be subject to a maximum limit, in function of the taxpayer's taxable income:

Taxable Income Bracket	Limit
Up to Eur. 4.898	no limit
From over Eur. 4.898 to Eur. 7.410	no limit
From over Eur. 7.410 to Eur. 18.375	€100
From over Eur. 18.375 to Eur. 42.259	€80
From over Eur. 42.259 to Eur. 61.244	€60
From over Eur. 61.244 to Eur. 66.045	€50
From over Eur. 66.045 to Eur. 153.300	€50
More than Eur. 153.300	€0

ASSET MANAGEMENT COMPANIES

Asset management companies resident in Portugal, with an account open with a registration or custodian entity will now be subject to the same withholding obligations, payment obligations and other declaration obligations that are specified for the latter entities.

INSURANCE FIRMS, FRIENDLY SOCIETIES AND PRIVATE SOCIAL SOLIDARITY INSTITUTIONS (IPSS)

Insurance firms, friendly societies, non-profit institutions whose object is health care provision and other entities that may co-fund health expenses, are now obliged to submit an annual declaration to the Directorate-General for Taxation, up to the end of February of each year, observing an official format, in relation to the previous year: of the amount of non co-funded health expenses that may be deducted from the taxable amount of IRS of the taxpayer and his family household and contributions paid to friendly societies, non-profit institutions whose object is health care provision and other entities that may co-fund health expenses.

DRAWDOWN OF PPR SAVINGS

The penalty applying in cases of early drawdown of amounts invested is altered, and will now add an amount corresponding to 1% of the amount paid, to the taxable amount for the year in which this payment occurred. The initial proposal was to establish a 10 % increase of the amount paid to the taxable amount. (At present, deducted amounts are added to the taxable amount of IRS in the year in question, with an increase of 10 %, for each year or fraction of a year since the right to making a deduction was exercised).

CAPITAL GAINS OF NON-RESIDENTS

The exemption from IRS for capital gains earned by non-resident natural persons who are domiciled in a country, territory or region for which there is no international double taxation treaty or agreement on exchange of information on fiscal matters, is revoked.

SHARES FROM PRIVATIZATIONS

The tax benefit applying to shares purchased in the framework of privatizations is revoked.

**EXTERNAL LOANS
(SCHULDSCHEINDARLEHEN)**

An exemption from IRS is introduced for interest from capital earned from abroad, derived from *Schuldscheindarlehen* loan contracts (loans with debt recognition certificate) signed by the Institute for Treasury and Public Credit Management, I.P. (IGCP), in the name and in representation of the Portuguese State, provided that the creditor is a non-resident and does not have stable establishment in Portugal to which the loan is imputed.

**DEBT INSTRUMENTS ISSUED BY
NON-RESIDENTS**

An exemption from IRS is introduced for income from public and non-public debt instruments issued by non-resident entities, considered to be obtained in Portugal under the terms of Portuguese tax legislation, when paid by the Portuguese State in order to guarantee obligations assumed by companies in which the Portuguese State is a shareholder together with other EU Member States.

III. SOCIAL SECURITY**PARTIAL POSTPONEMENT OF THE
NEW CONTRIBUTION LIABILITY**

A postponement is made, to at least 1 January 2014, for the regulations and entry into force of the new contribution liability, in relation to: monetary payments related to participation in company profits, financial investments made to the credit of employees (such as life assurance, pension funds, savings-retirement plans and any complementary Social Security regimes) and bonuses paid in function of the company's performance.

**POSTPONEMENT TO THE NEW
CONTRIBUTION RATES**

A postponement is also made, to at least 1 January 2014, for application of the provisions related to adjusting the employer's contribution rate, which currently stands at 23.75%, in function of the type of employment contract signed, as follows: a 1% reduction (to 22.75%) in the contribution rate, for employment contracts signed for an indefinite period of time and a 3% increase (to 26.75%) in the contribution rate, for fixed-term employment contracts.

**ELECTRONIC DECLARATION WHEN
HIRING NEW EMPLOYEES**

The obligatory communication to Social Security that must be made by employers when they hire new employees, from now on must be made electronically (via the *Segurança Social Directa* site), within the following deadlines: within 24 hours prior to the date on which the employment contract will take effect; or up to 24 hours after the activity has commenced, whenever, for exceptional and well-grounded reasons (for example, signature of very short-term employment contracts, or payment of shift work), the communication cannot be made within the prior 24-hour deadline.

**OFFICIAL DECLARATION OF
TERMINATION, SUSPENSION OR
ALTERATION**

It is also specified that communications related to termination, suspension and alteration of the modality of the employment contract, that the employer must make to the appropriate Social Security institution should be considered to have been complied with, if there is official knowledge thereof within the Social Security system.

STATE BUDGET 2011: TAX AMENDMENTS TAX AMENDMENTS

REPRESENTATION EXPENSES

The contribution liability rule related to representation expenses is altered, in order to cover the amounts that are effectively due on account of representation expenses, provided that they are predetermined and accounts haven't been provided up to the end of the financial year.

PERKS

The contribution liability rule related to perks is altered, and now covers those perks which, due to their amount and regular and permanent nature, should, in accordance with their respective uses, be considered to form an integral part of the remuneration.

PERSONAL USE OF A COMPANY CAR

Specific rules are established for the purposes of the contribution base, (thus eliminating remission to the regime specified in the Personal Income Tax Code), related to personal use of a company car. These rules include the requirement for a written agreement governing personal use of a company car by employees, which will specify: the assignment of a specific company car, on a permanent basis, to the employee; that the expenses related to the vehicle and use thereof will be borne in full by the employer; and with express reference to the fact that the car may be used for personal purposes or on a 24-hour basis, except for employees who are exempted from a standard working week regime, in which case this possibility is not relevant in order to define the personal nature of use of the car.

PERSONAL USE OF A VEHICLE

The concept of personal use of a vehicle now covers cases in which, in the written agreement, a specific company car is assigned to the employee, on a permanent basis, with the express possibility of using the car on weekly resting days, except, however, in cases in which the employee provides supplementary work in, at least, two obligatory weekly resting days, or in four obligatory or complementary weekly resting days. In these cases, the amount subject to the contribution liability, due to personal use, is 0.75% of the vehicle's acquisition cost.

TRANSPORT EXPENSES

The contribution rule related to transport expenses is altered, in order to cover expenses borne by the employer to cover trips made to the benefit of employees, to the extent that these do not correspond to use of means of transport provided by the employer or which exceed the amount of the social pass or, in the absence thereof, that result from use of collective transport, provided that, either the provision of means of transport, or attribution of transport expenses, is of a general nature.

COMPENSATION DUE TO CONTRACT TERMINATION

Compensation for termination of an employment contract by agreement, is now included within the contribution base, only in situations where there is entitlement to unemployment benefit. In turn, compensation for termination of an employment contract in situations where there is no concession of any prior notice, due to expiry of the contract and dissolution by the employee are excluded from the contribution base.

PER DIEMS, CASH MANAGEMENT BONUSES, COMPENSATION FOR CONTRACT TERMINATION AND USE OF OWN CAR

The limits specified in the Personal Income Tax Code are established for determination of the contribution base of payments related to per diems, cash management bonuses, compensation due to termination of an employment contract by agreement and, also, that earned by use of an employee's own car may be subject to an increase of up to 50%, provided that the increase results from general application by the employer of the Collective Agreement.

NEW GENERIC CONTRIBUTION RULE

A new generic contribution rule is introduced, under the terms of which the contribution base now covers, in addition to the specifically listed payments, all payments that are attributed to the employee on a regular basis, in cash or in kind, directly or indirectly, in return for payment of his work.

REGULARITY OF PAYMENT

The concept of regularity of payment is defined, covering any payment that constitutes an employee's right, because it has been pre-established on the basis of objective and general criteria, even if conditional, in order that the employee may count on receiving this amount, independently of the frequency with which it is granted.

**SERVICE PROVIDERS, PRODUCERS
AND TRADESMEN**

Service providers must now declare the total amount of provision of services made to natural persons who do not have a business activity; it is also specified that, unlike for freelance workers in general, producers and tradesmen are not obliged to make an annual declaration of the respective amounts covered by their business activity.

**CONTRIBUTION RATES OF
FREELANCE WORKERS**

The contribution rate for freelance workers is standardised, and the contribution rate to be paid by service providers is also established as 29.6% (similar to that established for producers or tradesmen).

**CONTRIBUTION RATES OF ENTITIES
CONTRACTING SERVICES**

A new contribution rate of 5%, to be paid by the entity contracting a provision of services, will only apply when, in the same calendar year, this entity benefits from at least, 80% of the total amount of the business activity pursued by a freelance worker, and does not apply to freelance workers who are exempted because they are covered by a foreign Social Security system.

CHARGEABILITY

The contribution obligation of entities contracting the provision of services only occurs at the time at which Social Security officially ascertains the amount of services provided to such entities, enforced through payment of the contribution in question. In this case, the inspection services of the Employment Conditions Authority or inspection services of the Social Security Institute, I.P., will be notified to confirm the legality of the situation.

DEADLINE FOR PAYMENT

Contributions due from contracting entities are ascribed to the previous calendar year, and the 20th day of the following month is established as the deadline for payment of the contributions owed. It is also established that contributions made by contracting entities are to be considered for the purposes of registration of the freelance worker's remuneration.

**CONTRIBUTION BASE IN SELF-
EMPLOYMENT**

It is established that the contribution base for freelance workers covered by the organised accounts regime shall now include the amount of taxable profit, whenever this is lower than the amount resulting from application of the previously specified coefficients (70% of provision of services and 20% of production and sales). This amount will be specified by the appropriate Social Security institution, on the basis of the amounts stated in the income tax returns for tax purposes. A minimum floor for the contribution base of these employees is also introduced, corresponding to the second income tax bracket (1.5 times the Social Support Index (IAS), i.e. € 628.83).

BANK EMPLOYEES

Working bank employees are integrated within the General Social Security Regime for employees working for others, for the purposes of protection of their parenting rights, in the framework of eventual motherhood, fatherhood and adoption, and in old age, also specifying that protection of the Social Security regime for employees working for others shall be maintained in the event of professional sickness and unemployment. The contribution rate will be 26.6% (23.6% for the employer and 3% for the employee). In the case of non-profit bodies, the contribution rate will be 25.4% (22.4% for the employer and 3% for the employee).

IV. CORPORATE INCOME TAX**PROFITS DISTRIBUTED TO NON-
RESIDENTS**

The exemption regime for profits distributed by entities resident in Portugal to entities resident in another EU Member State or the European Economic Area (EEA), in the conditions established in the "Parent-Subsidiary" Directive (Directive no. 90/435/EC), shall now only apply to entities that hold shareholdings of at least 10% of the share capital of the company distributing the profits, and independently of the purchase price of the respective shareholding. Accordingly, this exemption ceases to apply to shareholdings lower than 10% of the share capital, even if the respective purchase price is equal to or higher than € 20 million.

STATE BUDGET 2011: TAX AMENDMENTS TAX AMENDMENTS

DOUBTFUL CREDITS	In addition to judicially claimed credits, which are considered to be doubtful credits, this classification is also extended to credits claimed in an arbitration court, thus providing that the risk of non-collection is also duly justified in these situations. For this purpose, the corresponding losses should be accepted and be deductible, for tax purposes.
NON-COLLECTABLE CREDITS	Non-collectable credits, that may be directly considered as expenses or losses during the tax period, are also considered to include credits recognised in a decision issued by an arbitration court, within the framework of litigation arising from provision of essential public services, defined in accordance with the respective legal regime, or forfeited credits which do not exceed the amount of € 750.00.
COMMUNICATION OF RECOGNITION OF AN EXPENSE	In relation to this matter, provision is also made for the deductibility of credits classified as non-collectable credits or doubtful credits, is also dependent on the existence of proof of communication to the debtor, of recognition of the expenses for tax purposes, and the debtor should enter this amount as his income for the purposes of calculation of his taxable profit.
NEW BANKING TAX	It is stipulated that the new banking tax is not deductible, for the purposes of determining taxable profit, even when accounted for as an expense within the tax period.
CAPITAL LOSSES AND OTHER CAPITAL LOSSES	Capital losses and other losses related to shareholdings cease to be eligible for determining taxable profit, and cannot be used for deduction purposes, in the portion of distributed profits that over the last four years have benefited from application of the regime of elimination of economic double taxation specified in the Corporate Income Tax Code (IRC).
REINVESTMENT OF PROCEEDS FROM THE SALE OF SHAREHOLDINGS	The regime on reinvestment of sale proceeds deriving from tax gains, resulting from the transfer of shareholdings, subject to payment, shall now depend solely on whether the sold shareholdings correspond to at least 10% of the subsidiary's share capital. The respective acquisition values (currently at least € 20 million) cease to be relevant for the purposes of application of this regime. The regime on reinvestment of the proceeds from the sale of shareholdings thus ceases to apply to capital gains determined in the sale of shareholdings of less than 10% whose purchase prices are equal to or higher than € 20 million.
TOTAL ELIMINATION OF ECONOMIC DOUBLE TAXATION	Entities that directly hold a shareholding of less than 10% of the share capital of the distributing company cease to benefit from the regime of elimination of economic double taxation on distributed profits, independently of whether the respective purchase price is equal to, or higher than € 20 million, which also ceases to be of relevance for the purposes of application of this regime. Accordingly, the regime on elimination of economic double taxation of distributed dividends shall now only apply to shareholdings equal to or higher than 10%, held in the share capital of the company distributing the respective dividends, while maintaining the other requirements.
PARTIAL ELIMINATION OF ECONOMIC DOUBLE TAXATION	The new budget law revokes the regime of partial elimination of economic double taxation, corresponding to 50% of distributed profits, in cases in which the requirements for application of the full deduction are not fulfilled. As a result, dividends from subsidiaries that do not meet the requirements for application of full deduction shall be taxed in full.
ELIMINATION OF ECONOMIC DOUBLE TAXATION IN HOLDING COMPANIES (SGPS)	Finally, it is determined that full elimination of double taxation depends solely on effective taxation of the income that gave rise to the distributed profits, independently of whether or not the entity receiving this income is a Holding Company (SGPS).

CERTIFICATION OF TAX LOSSES	Provision is made for deduction of tax losses calculated in a specific financial year to require a legal certification of accounts by an Official Auditor (ROC), under terms and conditions to be defined in an order in council issued by the Minister of Finances. However, the present Law only approved the requirement of legal certification of accounts by an Official Auditor (ROC) in the third year, in the event that Commercial Companies deduct tax losses in two successive tax periods.
TAX LOSSES IN THE EVENT OF AMENDMENTS TO THE CORPORATE OBJECT	Whenever tax losses arise in relation to the period immediately before the occurrence of amendments to the entity's corporate object, the nature of the business activity previously exercised or ownership of, at least, 50% of the share capital or majority of the voting rights, and such an alteration occurs before the end of the deadline for submitting the Model 22 tax declaration, a request for maintenance of the losses may be presented in the 15 days after the end of the deadline for submission of the aforementioned tax declaration, or after the date of the respective delivery, if this occurs before, specifying, in this framework, that the rule establishing this alteration will have an interpretational nature.
REPORTING OF LOSSES AND CAPITAL LOSSES	The reporting period of tax losses and capital losses calculated by corporate bodies that do not exercise a commercial, industrial or agricultural activity as their main business activity, is reduced from six to four financial years, similar to the situation in force since 2010, for corporate bodies that exercise a commercial, industrial or agricultural activity as their main business activity.
CROSS BORDER MERGERS AND DIVISIONS	The scope of application of the tax neutrality regime, currently applying to shareholders of merged or demerged companies are extended to the other merger and demerger operations covered by the "Mergers-Demergers" Directive (Directive no. 2009/133/EC).
RATE FOR ENTITIES THAT DO NOT EXERCISE COMMERCIAL, INDUSTRIAL OR AGRICULTURAL ACTIVITIES	The taxation rate for the global income of entities with an effective address or registered office in Portugal that do not exercise a commercial, industrial or agricultural activity, as their main business activity, is increased from 20% to 21.5%.
RATE ON INCOME FROM DEBT AND CAPITAL INSTRUMENTS OF NON-RESIDENTS	The rate applying to income from debt instruments and other capital income, that is not expressly taxed at a different rate, obtained by entities who do not have an effective address or registered office in Portugal nor a stable establishment to which such income is imputed, is also increased from 20% to 21.5%.
RETENTION IN GOVERNING BODIES	The withholding rate for taxation of remuneration earned by persons in their capacity as member of the governing bodies of corporate bodies and other entities is also increased from 20% to 21.5%.
RETENTION IN ACCOUNTS OF UNIDENTIFIED THIRD PARTIES	The capital income paid or made available in accounts open in the name of one or more account holders, but on account of unidentified third parties will also be taxed, on a definitive basis, at a withholding rate of 30%, except in cases in which the effective beneficiary is identified, in which case the general rules apply.
RETENTION IN REGISTERED OR DEPOSITED SECURITIES	Finally, an obligation is established to make a withholding on income from securities that are subject to registration or deposit, issued by entities that are resident in Portugal, which now becomes the responsibility of the respective registration or custodian entities. In relation to income paid or made available by asset management companies resident in Portugal, with an account opened with registration or custodian entities, under the terms of no. 1, of article 5 of Decree-Law no. 163/94, of June 4, the latter entities will also be responsible for the aforementioned obligation.
AUTONOMOUS TAXATION OF 10% OF EXPENSES WITH VEHICLES	Autonomous taxation at the rate of 10% shall apply to expenses incurred or borne by corporate taxpayers that are not subjectively exempted from paying tax and who exercise, commercial, industrial or agricultural activity as their main business activity, with vehicles passenger or mixed vehicles, whose purchase price is equal to, or lower

STATE BUDGET 2011: TAX AMENDMENTS

than, the amount of the limit that is fiscally accepted and specified in order in council no. 467/2010, of 7 July, in which the amount set for the 2011 financial year is €30 000.00 and after 2012, the amount of €25 000.00. As a consequence, there will be an increase of the autonomous taxation rate from 5% to 10% specified for expenses related to passenger vehicles or mixed vehicles whose recognised CO2 emission levels are lower than 120 g/Km, in the case of This amendment implies elimination, in terms of autonomous taxation, of the positive discrimination of vehicles with a lower environmental impact.

AUTONOMOUS TAXATION OF 20% IN EXPENSES WITH VEHICLES

On the other hand, expenses incurred or supported by taxpayers that are not subjectively exempted from paying tax and who exercise, commercial, industrial or agricultural activity as their main business activity, with vehicles passenger or mixed vehicles, whose purchase price is higher than the fiscally-accepted limits (mentioned above) shall now be subject to autonomous taxation at a rate of 20%, independently of calculation of tax losses in the two tax years prior to that in which the expenses are incurred.

HIGHER AUTONOMOUS TAXATION IN THE EVENT OF TAX LOSSES

Finally, all rates of autonomous taxation specified in terms of IRC are increased by 10 percentage points, in relation to taxpayers who present a tax loss in the tax period, in relation to all taxable facts that are subject to autonomous taxation.

NEW GENERAL LIMIT ON TAX BENEFITS

A new increase is set on the limit for using tax benefits, through imposition of IRC paid, to 90% (currently 75%) of the amount of IRC that would be determined in the absence of application of tax benefits and special tax regimes. Calculation of the aforementioned limit excludes the following tax benefits: benefits that have a contractual nature; that result from the Tax Incentives System in Business Development Research II (SIFIDE II); that apply to Free Trade Zones; that operate through a reduction in the rate of IRC; that aim to foster job creation; or derive from the regime applying to Holding Companies, Venture capital firms and Venture capital investors; that derive from application of the mechanism to eliminate economic double taxation of profits distributed by companies resident in Official Portuguese-Speaking African Countries (PALOPs) and the Democratic Republic of East Timor.

RETENTION ON DISTRIBUTED PROFITS TO RESIDENTS IN THE EU OR EEE

In the case of profits paid or made available by a company resident in Portugal, that is subject to, and not exempt from, IRC or is subject to the special gambling tax, to entities resident in another EU Member State or the EEE (in the latter case, provided that there is an obligation for administrative cooperation on fiscal matters equivalent to that established in the EU), there may be repayment of the tax that has been retained and paid, in the portion that is higher than that which would result from application of the general rates of IRC and the state local tax, taking into consideration all income obtained by these entities, including that obtained in Portugal.

REQUEST FOR REBATE

The rebate depends upon presentation of a request by the beneficiary, addressed to the appropriate services of the Directorate-General for Taxation, to be presented within a maximum of two years from the end of the calendar year after the one in which the taxable event occurred. For this purpose, proof must be provided that the beneficiary complies with the conditions established in article 2 of Directive no. 90/435/EC.

REBATES AND INDEMNITY-BASED INTEREST

The aforementioned restitution of tax should be made up to the end of the third month, following presentation of the elements and information which are indispensable for proof of the legally-required conditions and requirements. After this deadline, indemnity-based interest must be added to the amount to be repaid at a rate identical to that which applies to compensatory interest on credits owed to the State.

SPECIAL PAYMENT ON ACCOUNT (PEC) IN BANKING AND INSURANCE

The concept of "turnover", for the purposes of calculation of the Special Payment on Account (PEC) is widened for banks, insurance firms and other entities of the financial sector, for which application of specific accounts plans are specified, to include fees

	on insurance contracts and operations considered to constitute investment contracts or service provision contracts.
DIGITAL DOCUMENTATION FORMATS	Digital formats cease to be considered to constitute a faithful reproduction of documents that are not authentic and authenticated documents.
ELECTRONIC DOCUMENTATION FORMAT	The possibility is also established of archiving, in an electronic format, of invoices or equivalent documents, sales receipts or any other documents of tax relevance, issued by the taxpayer, provided that they have been processed by computer.
DESTRUCTION OF BILLING PROGRAMMES AND EQUIPMENTS	Exceptional devaluations deriving from destruction, in 2010 or 2011, of computerised billing programmes and equipment, that have been substituted as a consequence of the requirement for certification of billing software, will be considered to be losses by imparity, and the taxpayer will not have to present a well-grounded statement of the facts that originated such exceptional devaluations, and, as a consequence, there is no need for formal acceptance by the Directorate-General for Taxation.
ACQUISITION OF BILLING PROGRAMMES AND EQUIPMENT	In addition, it is established that expenses related to acquisition, in the 2010 or 2011 financial years, of certified billing computerised programmes and equipment will be considered to constitute a fiscal expense, during the tax period in which they are incurred.
SPECIAL TAX REGIME FOR GROUPS OF COMPANIES	The determination of the taxable profit of the group, which is the algebraic sum of the taxable profits and tax losses, ascertained in the individual periodic declarations of each of the companies that belong to the group, will cease to be corrected by the portion of profits distributed between the group companies included in the individual taxable bases.
NET JOB CREATION	The limitation on use of this tax benefit associated to job creation to one occasion only per employee, is now stipulated to apply solely to those situations in which the employee has been previously employed in this entity or in another entity with which it maintains special relations (as this concept is defined in terms of transfer prices).
CAPITAL GAINS OF NON-RESIDENTS	The exemption from IRC ceases to apply to capital gains earned by non-resident entities domiciled in a country, territory or region with which no International Double Taxation Treaty or an Agreement on Exchange of Information on Fiscal Matters is in force.
SGPS, SCR AND ICR	Elimination of economic double taxation on distributed profits within the sphere of Holding Companies (SGPS), Venture capital firms (SCR) and Venture capital investors (ICR) ceases to depend upon compliance with the requirement of a minimum shareholding of 10% in the share capital of the company that is distributing the profits.
PUBLIC ROAD TRANSPORT OF PASSENGERS AND MERCHANDISE	For the 2011 financial year, there will no longer be an exemption from taxation of the positive difference between capital gains and capital losses resulting from transfer of vehicles, subject to payment, assigned to road transport of passengers (public transport and taxis) and merchandise, in the event of reinvestment of the totality of the sale proceeds in acquisition of new vehicles, subject to verification of specific conditions.
SHARES PURCHASED IN PRIVATIZATIONS	The tax benefit deriving from taxation of only 50% of dividends from shares purchased within the framework of privatization processes launched until the end of 2002 has been revoked.
LOANS TO SME	Provision is made for the possibility of deduction, for tax purposes, of interest and other forms of remuneration of shareholders loans and other loans made by shareholders to Small- and Medium-Sized Enterprises (SME), whose amount is set on

STATE BUDGET 2011: TAX AMENDMENTS

TAX AMENDMENTS

the basis of the 12-month EURIBOR rate on the date of constitution of the debt, plus a spread of up to 6%. Thus in this context, the portion in excess of this limit cannot be deducted for tax purposes.

CONVENTIONAL REMUNERATION OF SHARE CAPITAL

A tax benefit in the form of a deduction is established, for the purposes of determination of taxable profit, in the context of IRC, of an amount corresponding to the conventional remuneration of share capital within the framework of operations of business start-up or increase of the share capital of companies which qualify as SME, to be applied, in identical terms to the regime currently in force, from 2011 to 2013.

EXTERNAL LOANS (SCHULDSCHEINDARLEHEN)

The interest on capital, earned from abroad from *Schuldscheindarlehen* loan contracts (loans with a debt recognition certificate), signed by the Institute for Treasury and Public Credit Management, I.P. (IGCP), in identical terms to that described above, in the context of IRS, will be exempt from IRC.

DEBT INSTRUMENTS ISSUED BY NON-RESIDENTS

Provision is made for an exemption from IRC for income from public and non-public debt instruments, issued by non-resident entities, that are considered to be obtained in Portugal, under the terms of the Corporate Income Tax Code, when they are paid by the Portuguese State, in order to guarantee obligations assumed by companies in which the Portuguese State is a shareholder, together with other EU Member States; in subjective terms. This exemption should apply to effective beneficiaries who comply with the requirements specified in the Special Taxation Regime for Income from Debt Instruments.

REPORTING OF SECURITIES

An exemption from IRC is provided for gains obtained by non-resident financial institutions when carrying out securities reporting operations made with non-resident credit institutions, provided that the gains may not be imputed to a stable establishment of these institutions located within Portugal.

INVESTMENT SUPPORT TAX REGIME

The validity period of the Investment Support Tax Regime (RFAI) is extended until December 31, 2011, without any amendments to the regime currently in force.

V. VALUE-ADDED TAX

NORMAL RATE

The normal rate of VAT will increase from 21% to 23%, in the Portuguese Mainland, and from 15% to 16%, in the Autonomous Regions.

AMENDMENTS TO LIST I (REDUCED RATE)

In the framework of the Draft Law, it was provided that the normal rate of Value-Added Tax (VAT), would apply to the following goods and services (currently taxed at the reduced rate of 6% in the Portuguese Mainland, and 4% in the Autonomous Regions): soya desserts; provision of services by attorneys and solicitors to retired persons; provision of services by attorneys and solicitors to any interested party in proceedings related to persons' estates; practice of sporting activities; chocolate milk, flavoured, vitamin-added or enriched milk; milk drinks and deserts; soft drinks, fruit juices and fruit drinks or horticultural products; leaflets and other non-periodical publications of a cultural, educational, recreational and sports nature; and, fire fighting and detection equipment. This proposal represents a 17% increase, in the Portuguese Mainland, above the VAT rate that currently applies to the aforementioned goods and services and a 12% increase in the Autonomous Regions. However, from the initially proposed list, only the following goods and services will be subject to the normal rate of VAT (and the others will therefore continue to be taxed at the reduced rate): leaflets and other non-periodical publications of a cultural, educational, recreational and sports nature, stitched or bound, except for: a) Books for collecting stickers, decalcomanias, pictures or engravings; b) Pornographic or obscene books and leaflets; c) Works bound in leather, silk fabrics or similar materials; d) Calendars, timetables, personal agendas and notepads; e) Promotional or advertising posters or

leaflets, including tourism posters or leaflets, and route-guides and maps of roads and locations; f) Illustrated postcards; and also utensils and other equipment that are exclusively or principally intended for fire fighting and detection.

AMENDMENTS TO LIST II (INTERMEDIATE RATE)

The Draft Law for the 2011 State Budget also proposed application of the normal rate of VAT to the following goods (currently taxed at the intermediate rate of 13%, in the Portuguese Mainland, and 9% in the Autonomous Regions): canned meat, fish and molluscs; tinned fruit, jams, jellies, quince jams or pulp fruit; conserves of horticultural products; cooking oils; margarines of animal and vegetable origin; aperitifs based on horticultural products and seeds; corn, wheat or potato starch aperitifs or snacks, in individual packages; cut flowers, leaves for ornamentation and decorative floral compositions; and ornamental plants. This proposal represented a 10% increase, in the Portuguese Mainland, of the VAT rate currently applying to the aforementioned goods and a 7% increase in the Autonomous Regions. It should be noted, however, that the provision of food and drink services will continue to be taxed at the intermediate rate, of 13% in the Portuguese Mainland, and 9% in the Autonomous Regions. However, following approval of the Law for the 2011 State Budget, only the following goods from the initial list, will be subject to the normal rate of VAT (and therefore the others will remain subject to taxation at the intermediate rate): cut flowers, leaves for ornamentation and decorative floral compositions, except for dry leaves and flowers; and also ornamental plants.

TAX LIEN OF VAT CREDITS

Provision is made for VAT credits, which at present can only be subject to a tax lien when offered for this purpose by the taxpayer, can now be coercively subjected to a tax lien when such credits assume the form of confirmed and communicated reimbursements, under the terms of the diploma which regulates tax collection and rebates.

RESTITUTION OF VAT TO THE CATHOLIC CHURCH AND PRIVATE SOCIAL SOLIDARITY INSTITUTIONS (IPSS)

The Draft Law for the 2011 State Budget also proposed revocation of the regime for restitution of VAT to the Catholic Church and to Private Social Solidarity Institutions (IPSS), in relation to certain imports and acquisitions of goods and services, specifically in relation to the VAT paid with acquisition of goods or services related to the construction, maintenance and conservation of properties used in pursuit of their respective statutory goals. However, after approval of the State Budget law, it was decided to maintain this possibility of restitution VAT to the Catholic Church. The law, however, revokes the possibility for the Santa Casa da Misericórdia and Private Social Solidarity Institutions (IPSS), to request restitution of VAT, while maintaining this right, however, in relation to specific operations in progress on December 31, 2010 and in the framework of specific programmes, measures, projects and actions that are co-funded by the public sector.

VI. MUNICIPAL PROPERTY TAX

RESIDENTS IN TAX SHELTERS

The rate of Municipal Property Tax (IMI) currently applying to properties owned by entities with their tax domicile territory subject to a more favourable tax regime, has now been increased from the previous level of 1% or 2%. The rate of 5% has been reintroduced.

ENTITIES RESPONSIBLE FOR THE PUBLIC SCHOOLS NETWORK

Public business entities that are responsible for the public schools network are exempted from Municipal Property Tax (IMI), in relation to the properties that are directly or indirectly intended for pursuit of their goals.

PROPERTIES WITH A REDUCED ASSET AMOUNT

The exemption from IMI applicable to urban and rural properties with a reduced asset amount, owned by low-income taxpayers, will now also be indexed to the Social Support Index (IAS). In this regard, the exemption will apply to urban and rural properties owned by taxpayers whose total gross income of their family household,

STATE BUDGET 2011: TAX AMENDMENTS TAX AMENDMENTS

encompassed for the purposes of Personal Income Tax (IRS), is not higher than twice the amount of the Social Support Index (IAS) and whose global amount of taxable assets does not exceed 10 times the annual amount of the Social Support Index (IAS) (€ 4,192.20). In practise, the aforementioned index will only apply when the current amount of the Social Support Index (IAS) (€ 419.22) attains the amount of the national minimum wage in force in 2010 (€475).

CLOSED REAL-ESTATE INVESTMENT FUNDS

A full exemption from IMI is granted for properties integrated within Closed Real-Estate Investment Funds (FII). However, this exemption will from now on be limited to Real-Estate Investment Funds where the issue of the respective units is made in the form of a public subscription offering; i.e. the qualified nature criterion of investors/participants, which was abandoned at the time of the Law for the 2010 State Budget, is reintroduced.

VII. MUNICIPAL PROPERTY TRANSFER TAX

LISTED BUILDINGS

Acquisitions of listed buildings of national interest, public interest or municipal interest, in function of their individual classification are exempted from Municipal Property Transfer Tax (IMT).

PROPERTIES FOR HABITATION

The brackets for the rates of Municipal Property Transfer Tax (IMT) applying to acquisition of the properties intended for habitation, are updated as follows:

2010			2011		
Amount on which IMT is payable	Percentage rates		Amount on which IMT is payable	Percentage rates	
	marginal	average (*)		marginal	average (*)
Up to 90.418	0	1,0000	Up to 92.407	0	1
From over 90.418 to 123.682	2	1,2689	From over 92.407 to 126.403	2	1,2663
From over 123.682 to 168.638	5	2,2636	From over 126.403 to 172.348	5	2,2636
From over 168.638 to 281.030	7	4,1578	From over 172.348 to 287.213	7	4,1578
From over 281.030 to 538.978	8	-	From over 287.213 to 550.836	8	-
More than 538.978	6 (taxa única)		More than 550.836	6 (taxa única)	

(*) at the top end of the bracket

EXPIRY OF EXEMPTION

The exemption from Municipal Property Transfer Tax (IMT) and application of reduced rates for habitation cease to apply if the respective properties are not used as the taxpayer's own and permanent residence within a maximum of six months from the acquisition date.

PROPERTIES TO BE USED AS THE TAXPAYER'S OWN PERMANENT RESIDENCE

The amount exempt from Municipal Property Transfer Tax (IMT) is updated from € 90,418.00 to € 92,407.00, in the table of property acquisition destined exclusively for the taxpayer's permanent residence, under the following terms:

2010			2011		
Amount on which IMT is payable	Percentage rates		Amount on which IMT is payable	Percentage rates	
	marginal	average (*)		marginal	average (*)
Up to 90.418	0	0	Up to 92.407	0	0
From over 90.418 to 123.682	2	0,5379	From over 92.407 to 126.403	2	0,5379
From over 123.682 to 168.638	5	1,7274	From over 126.403 to 172.348	5	1,7274
From over 168.638 to 281.030	7	3,8361	From over 172.348 to 287.213	7	3,8361
From over 281.030 to 538.978	8	-	From over 287.213 to 574.323	8	-
More than 561.960	6 (taxa única)		More than 550.836	6 (taxa única)	

(*) at the top end of the bracket

SUBSTITUTED PAYMENTS TO CREDIT INSTITUTIONS	In the case of substituted payments made by a single debtor, the credit institution may be able to request suspension of payment of Municipal Property Transfer Tax (IMT) (instead of payment followed by subsequent rebate), provided that this exemption is recognised by the Minister of Finances. In cases in which suspension of the tax has been requested and this exemption request is not granted, compensatory interest will be due, for a maximum of 180 days.
LESS FAVOURED REGIONS	Despite the proposal to revoke the exemption applying to acquisitions of goods located in less favoured regions, made by commercial or civil companies in a commercial form, intended for the exercise, in those regions, of agricultural or industrial activities considered to be of greater economic or social interest, it was finally decided to maintain the aforementioned exemption.
CO-OWNERSHIP	Despite the proposal, in cases of total or partial transfer of properties in which the acquirer is co-owner and has paid the tax at the time of acquisition, to apply the respective rate to each distinct amount, it was finally decided to maintain application of the rate to the totality of the property transfer.
EXPIRY AND ARCHIVING	In cases in which signature of the public deed is not obligatory, the deadlines for expiry and archiving are counted from the date of implementation of the property registration.
INHERITANCE DIVISIONS	In judicial and extra-judicial inheritance divisions, the Municipal Property Transfer Tax (IMT) shall now be paid within 30 days after the act, rather than within 30 days after the notification.
EXEMPTION FOR A PURCHASE OPTION IN FINANCING LEASING	Provision is made for clarification of the conditions of application of the exemption from Municipal Property Transfer Tax (IMT) granted to transfers of real-estate assets, to the credit of a financial lessee. From now on the exemption will only apply when the acquisition occurs as the result of exercise of a purchase option right specified within the financing leasing contract.
REDUCED RATE IN FINANCING LEASING	Within the framework of the tax regime applying to financing leasing, the reduced rate of 4%, applying to the acquisition of a certain kind of properties, specifically properties intended for industries of interest for the country's economic development, is revoked.
REBATE FROM THE MINISTER OF FINANCES	A proposal was made to revoke the mechanism that enables taxpayers to request repayment from the Minister of Finances of unduly paid tax, within a maximum of 4 years after settlement thereof, independently of annulment of the settlement, however it was finally decided to maintain the aforementioned norm.
CLOSED REAL-ESTATE INVESTMENT FUNDS	As in the case of Municipal Property Tax (IMI), a full exemption from Municipal Property Transfer Tax (IMT) applying to acquisition of properties integrated within Closed Real-Estate Investment Funds is granted. However, from now on the exemption will be limited to Real-Estate Investment Funds where issue of the respective units is made in the form of a public subscription offering. (i.e. the qualified nature criterion of investors/participants that was abandoned at the time of the Law for the 2010 State Budget, is reintroduced).

VIII. STAMP DUTY

INTRODUCTION OF THE TAX OBLIGATION	In the case of acts, contracts, documents, securities, papers and other facts specified within the General Stamp Duty Table (TGIS), that do not involve the intervention of corporate bodies or natural persons exercising a commercial or industrial activity or provision of services (i.e. which only involve the intervention of natural persons on
------------------------------------	---

STATE BUDGET 2011: TAX AMENDMENTS TAX AMENDMENTS

a private basis), stamp duty shall only fall due when such acts are presented before notary publics, registrars of civil, commercial and land registry offices and registry offices of other goods subject to registration, other public bodies, including State establishments and organisations, as well as entities or professionals that authenticate private documents (in relation to acts, contracts and other facts in which they intervene). This provision will not extend to acts, contracts and documents signed before notary publics in relation to credit and guarantees granted by credit institutions, financial companies or other equivalent entities and by any other financial institutions.

LOANS THAT HAVE THE CHARACTERISTICS OF SHAREHOLDERS LOANS

An exemption from Stamp Duty is introduced for loans with the characteristics of shareholders loans, including the respective interest charged by shareholders to the company, which cease to be subject to the dual condition of stipulation of an initial deadline of at least 1 year and that the respective rebate is not made prior to the end of this deadline.

ACQUISITIONS BY ENTITIES RESPONSIBLE FOR THE PUBLIC SCHOOLS NETWORK

An exemption from Stamp Duty is also granted for acquisitions of properties, in return for payment or free of charge, by public business entities responsible for the public schools network, directly or indirectly intended for pursuit of their statutory goals.

REBATE BY THE MINISTER OF FINANCES

As with the case for Municipal Property Transfer Tax (IMT), a proposal was made to eliminate the mechanism that enables taxpayers to request from the Minister of Finances repayment of Stamp Duty unduly charged over the last 4 years, when the specific procedural and process-based norms have not been used at the opportune moment, but it was also finally decided to maintain this possibility

GUARANTEES PROVIDED

In the 2011 tax year it is planned to renew the exemption from Stamp Duty for constituting guarantees made to the credit of the State or Social Security institutions, provided for the purposes of paying amounts owed to the State or Social Security and other exceptional payment deferral measures, reduction of amounts, conversion of debtor entities into capital, or sale of the State's or Social Security's credits.

REPORTING OF SECURITIES

Provision is made to provide an exemption from Stamp Duty for reporting operations of securities or equivalent rights made in stock exchanges, together with reporting and fiduciary sale in guarantee made by financial institutions (credit institutions and financial companies), through intervention of central counter parties.

IX. TAX ON ALCOHOL AND ALCOHOLIC DRINKS

RATES

The tax rates on beer, intermediate products and alcohol and spirits are increased by 2.2%, (in line with the anticipated rate of inflation).

X. TAX ON TOBACCO

TAX INCIDENCE

The definitions of cigars and cigarillos are altered. They now encompass tobacco rolls with an interior constituted by a mixture of beaten tobacco with an exterior covering, with the natural colour of cigars and a minimum unit weight equal to or higher than 2.3 g, such as previously existed, but now with a maximum weight lower than 10 g and with maintenance of the perimeter, in at least one third of their length, equal to or higher than 34 mm. The definition of "fine cut tobacco intended for rolled cigarettes" is also changed, with the reference of the width of the particles increasing from 1 mm to 1.5 mm.

RATES

For cigarettes, the specific element, is updated from € 67.58 to € 69.07, which corresponds to a 2.2% increase, (in line with the anticipated rate of inflation), but the ad valorem element of the tax remains at 23%, while for cigars and cigarillos, which are considered to be prestige products, and whose rates, are exclusively, ad valorem,

there is a 5.3% increase (from 12.35% to 13%). For fine cut tobacco, intended for rolled cigarettes, there is a 20% increase (from 49.77% to 60%) and for other smoking tobaccos there is a 7.7% increase (from 41.78% to 45%).

RATES IN AUTONOMOUS REGIONS

The specific element of the tax rate that is applicable in autonomous regions of Madeira and Azores has been increased to €15.30 (the previous amount was €9.28 in Azores and €15 in Madeira).

XI. TAX ON PETROLEUM AND ENERGY PRODUCTS

BIOFUELS

Taxation of biodiesel fuels will undergo a profound alteration, due to elimination of the partial exemption (from € 280 per 1000 litres) granted to industrial-scale production of products, intended for sale to consumers, while maintaining the exemption from the Tax on Petroleum and Energy Products (ISP) for biodiesel produced by “small dedicated producers”, up to the maximum (national) global limit of 40 000 t/year, but unlike the situation prevailing until now, the Government can now determine that this exemption will only be partial. The specific amount of the exemption and the application procedures will be regulated in a joint order in council to be issued by the members of Government responsible for the areas of Finance, Economy, Agriculture and the Environment. As a result of elimination of the exemption from ISP for industrially-produced biodiesel and given that there is currently an obligation to incorporate 6% of biodiesel in standard diesel fuel, the product’s retail price is likely to increase. As a consequence of the elimination of the tax benefit for biodiesel produced and consumed (at an industrial level) in Portugal, there will also be elimination of circulation restrictions in Portugal, in the regime of suspension of ISP and controls on the product’s entry in Portuguese tax entrepôts, and circulation will now take place in conformity with the general rules set in the Special Consumer Taxes Code (IEC).

RATES

We do not yet know whether the Government intends to update the rates of ISP – which is achieved by means of an order in council, within legally specified intervals. In this regard, attention should be drawn to the difference between the tax burden and VAT rates in Portugal (23%) and Spain (18%). On all accounts, we can be sure that there will be a significant price increase for fuels in 2011, given that, in addition to the probable repercussion on end consumers of the tax expense, in the amount of 85 million euros per year, on biodiesel incorporated in diesel fuels, there will also be the effect of the increase in the VAT rate from 21% to 23%.

RATE ON LIQUEFIED PETROLEUM GASES

The tax rate on so-called liquefied petroleum gases (butane and propane), used as an automobile carburant, increased from €109.65/1000 kg to €125.00/1000 kg, which corresponds to a 14% increase, as a result of which Portugal is no longer in non-compliance with Community law, given that it now practises the minimum community rate.

TAXATION OF ELECTRICITY

Taxation of electricity has not yet been established, even though this was to be expected, given that Portugal’s derogation on this matter terminated on January 1, 2010.

XII. VEHICLE PURCHASE TAX

RATES ON LIGHT PASSENGER VEHICLES

The structure of the tables is maintained, both in relation to cylinder capacity, and the environmental component (CO2 emissions), but there is a major increase in the rates of Vehicle Purchase Tax (ISV) applying to light passenger vehicles and other vehicles covered by Table A. Accordingly, the cylinder capacity component is

STATE BUDGET 2011: TAX AMENDMENTS TAX AMENDMENTS

updated by 2.2% (corresponding to the anticipated rate of inflation), and there is also a 5% increase in the environmental component, resulting from introduction of an updating coefficient, for 2011, of 1.05. In addition to these increases in the rates of ISV, VAT rates will increase, as stated above, by 2%, which implies a total increase in automobile taxation of 6%.

INCREASE ON DIESEL-POWERED VEHICLES

There is also a higher penalty on diesel-powered vehicles, with a level of emission of particles higher than 0.005 g/km, which increases from € 250 to € 500.

RATES ON LIGHT COMMERCIAL VEHICLES

The rates of ISV on so-called light commercial vehicles, will increase by an average of 2.2%, similar to the update introduced in the rates of Special Consumption Tax (IEC) and in accordance with the anticipated rate of inflation.

RATES ON MOTORBIKES, TRICYCLES AND QUADRICYCLES

The rates on motorbikes and motorised tricycles and quadricycles with cylinder capacity of between 180 and 750 cubic centimetres have increased by 4.2% and rates on equivalent vehicles with cylinder capacity higher than 750 cubic centimetres are updated by 2.2%. The grounds for these two distinct criteria are unclear since it seems more convenient to maintain a uniform increase, or observe the inverse tendency given environmental aspects.

RATES ON SECONDHAND VEHICLES

The rates on second-hand vehicles purchased in another Member States are changed again. The reduction percentages that hitherto only applied to the cylinder capacity component of ISV, now also apply to the environmental component. This alteration aims to ensure that the taxation regime for second-hand vehicles stands in conformity with the case law of the Court of Justice of the European Union (CJEU), that has ordered application of the reduced percentage to the totality of the tax incorporated within second-hand vehicles rather than to only one component therein, even when, as is in this case, environmental concerns are at stake.

DEVALUATION IN SECOND HAND VEHICLES

In addition to this modification, eventual recourse to valuation of the second-hand vehicle, for subsequent payment of ISV, on the basis of the calculation formula of devaluation, is now subject to prior payment of a tax, to be set by an order in council issued by the member of Government responsible for Finances that aims to charge the interested party for the costs inherent to the vehicle's valuation. This tax seems to conform with the case-law of the Court of Justice of the European Union (CJEU), given that it results from a faculty granted to the taxpayer of the ISV (which may or may not be used), and, first and foremost, it is natural that the taxpayer should bear the cost of the vehicle's valuation.

PRIVATE SOCIAL SOLIDARITY INSTITUTIONS (IPSS)

The scope of application of the exemption from ISV granted to Private Social Solidarity Institutions (IPSS) and, that only applied to acquisitions, subject to payment, of vehicles for collective transport of passengers with seating capacity for nine persons, including the driver, will now apply to any acquisition, of this kind of vehicle, including, naturally, donations that occur, with a certain level of frequency, which were previously excluded from the exemption.

PUBLIC UTILITY CORPORATE BODIES

However, in an apparently contrary initiative, the exemption from ISV for vehicles purchased by public utility corporate bodies was eliminated.

RENT-A-CAR

The scope of application of the reductions in the rate of ISV, granted to so-called rent-a-car companies, whose level of CO2 emissions could not exceed 130 g/km, is now limited to vehicles which do not exceed 120 g/km, thus significantly reducing the range of vehicles that may benefit from the 50% reduction in the rates of ISV.

VEHICLES AT THE END OF THEIR WORKING LIFE

The tax incentive regime for withdrawal from circulation of "vehicles at the end of their working life" has been eliminated.

PUBLIC UTILITY CORPORATE BODIES	XIII. SINGLE ROAD TAX	The exemption from Single Road Tax (IUC) for vehicles of the public utility corporate bodies is eliminated.
RATES		The rates of Single Road Tax (IUC) are updated by around 2.2% (inflation) except for goods vehicles of professional use, which are not subject to any increase; the tax on light passenger vehicles and mixed vehicles registered in 2011 will be the same as in 2010, as the annual increase on those taxes has now ended.
LATE PAYMENT INTEREST FOR SUBSIDIARY PERSONS RESPONSIBLE FOR PAYING TAX	XIV. TAX PROCEDURE AND PROCESS	Provision is made for the exemption from late payment interest granted to the subsidiary person responsible for paying tax debts, at the time of payment of debt in the tax enforcement proceedings, to be limited to the interest settled during the tax enforcement process itself and therefore excluding from that exemption any late payment interest that is paid prior to drawing up the tax enforcement procedure.
DELEGATION OF POWERS		The tax authorities are no longer limited in delegating powers and can now delegate to public officials other than those immediately below them in the organisational hierarchy.
INFORMATION ON OPENING AND MAINTAINING ACCOUNTS		The requirements specified in the law for the purposes of sending information related to opening or maintaining accounts, by credit institutions and financial companies, are no longer cumulative. Accordingly, such information must be provided, either in the cases of taxpayers whose tax situation has not been regularised, or in the cases of taxpayers inserted within sectors of risk.
INFORMATION ON PAYMENTS MADE WITH DEBIT AND CREDIT CARDS		Provision of information by credit institutions and financial companies in relation to the amount of payment flows with credit and debit cards, made by this channel to taxpayers who earn income in category B of IRS (business and professional income) and IRC, must be made up until the end of the month of July in each year, through presentation of an official tax form approved by an order in council issued by the Minister of Finances, and is therefore no longer dependent on a request by the tax authorities to this effect, specifically from the Director-General of Taxes or the Director-General of Customs and Special Consumption Taxes.
TAX EXEMPTION IN BANKING CONFIDENTIALITY		The tax authorities will now be able to access all banking information or documents without requiring consent from the holder of these elements, whenever debts are proven to be owed to the tax authorities or Social Security.
INDEMNITY-BASED INTEREST		An express definition is provided of the entities empowered to recognise a taxpayer's right to indemnity-based interest, taking into consideration the nature of the procedure in question: by the body with power to decide the administrative claim, when the grounds are an error that may be imputed to the services that resulted in payment of a tax debt that was higher than the legally due amount; by the entity that determined official restitution of the tax payments made, when the legal deadline for normal restitution was not met; by the entity that processed the credit note, when indemnity-based interest is due for late processing; by the entity responsible for the decision on the request to revise the taxable act at the taxpayer's initiative, when the legal deadline for revision of the taxable act is not observed.
CLAIM FOR NON-PAYMENT OF INDEMNITY-BASED INTEREST		It is also stipulated that the taxpayer may now claim for failure to pay indemnity-based interest, to the appropriate regional peripheral body of the tax authorities, within a maximum of 120 days from the date on which he learns of the credit note, or in the absence thereof, at the end of the deadline for its issue. It is also provided that, in the event of execution of a judicial decision that delivers entitlement to indemnity-based interest, the aforementioned claim may be presented within a maximum of 30 days from the end of the deadline for spontaneous execution of the decision.

STATE BUDGET 2011: TAX AMENDMENTS TAX AMENDMENTS

JURISDICTION OVER ADMINISTRATIVE CLAIMS

The issues of jurisdiction to decide an administrative claim in respect of an act done as a consequence of inspection procedures made by the respective services has now been determined. Under the general rule, jurisdiction had been with the Director of Finances with territorial jurisdiction. However, it is now held by the director of services of the operating area of the central tax inspection services.

JURISDICTION OVER TAX ENFORCEMENT PROCEEDINGS

Provision is made the chief officer of a service, by means of a dispatch and whenever this is justified in order to rationalise resources and ensure effective tax collection, to attribute jurisdiction for tax enforcement to the regional peripheral body of the area of the debtor's domicile or registered office.

JURISDICTION OVER VERIFICATION AND GRADUATION OF CREDITS

In the event of claims for credits, or if debt certificates are attached to the tax enforcement procedure, claimed by the heads of the local peripheral services of the area of domicile of the person to whom goods are subject to a tax lien and the situation of properties or commercial or industrial establishments in other locations than that in which the process is being carried out, the jurisdiction for verification and graduation of credits is now attributed to the tax enforcement body, and thus ceases to be attributed to the Tax Court of First Instance. It is possible to file a (judicial) claim against the decision on verification and graduation of credits that will be immediately forwarded to the Tax Court of First Instance.

SALE OF GOODS SUBJECT TO A TAX LIEN

The sale of goods which have been subjected to a tax lien, on the basis of a tax enforcement proceedings, will now preferably be made by means of an electronic auction (whose procedures and specifications will also be defined by an order in council to be issued by the Minister of Finances) or, in the impossibility thereof, by the means that is currently considered to be preferable, i.e. sealed letter bids. The chief officer of the service is granted the possibility to determine another modality of sale.

SALE FORMALITIES

The sale made by means of an electronic auction, will take place during a 15 day period, and the base bid amount will correspond to 70% of the specific amount under the general terms already in force (taxable asset amount calculated under the terms of the Municipal Property Tax Code, in the case of urban properties, and the amount set by the enforcing body, in the case of rural properties, or the amount attributed in the tax lien record, in the case of movable assets). If no purchase bids are submitted, the sale will immediately advance to the modality of sealed-letter bids, which will take place during a 15 to 20 day period, and the base bid amount will drop to 50% of the specific amount under the aforementioned general terms. Also within this framework, it is stipulated that, if no bids are presented, either via the electronic auction, or sealed-letter bids, a new electronic auction should be opened, held during a 20 day period, and the asset will be awarded to the highest bid.

PAYMENT FOR THE PURCHASED ASSETS

Payment for the purchased asset must be made in full, within a maximum of 15 days from the end of the bid submission deadline. There is therefore no longer a possibility of part payment to the tax enforcement body, of at least one third of the amount by means of treasury operations. Nonetheless, in the event that the amount of the acquisition is over 500 times the account unit (currently, €51 000), the buyer may, by means of a well-grounded request, be authorised to deposit only part of the price, at least one third, while undertaking to deliver the remainder within a maximum of eight months.

DELIVERY OF ASSETS PURCHASED

The possibility is granted to the buyer of the assets, on the basis of the title of transfer, to request from the tax enforcement body, against the holder and within the process itself, delivery of the assets, and for this purpose the body may request assistance from the police authorities.

DEADLINE FOR CLAIMING CREDITS BY THE REPRESENTATIVE OF THE PUBLIC EXCHEQUER

The deadline of 25 days from the notification, for the representative of the Public Exchequer to claim credits to the Tax Court of First Instance of the area of the tax enforcement body is revoked.

RATE OF LATE-PAYMENT INTEREST

Calculation and publication by the Institute for Treasury and Public Credit Management, I.P. (IGCP), of late-payment interest rates, with an annual validity period starting on 1 January of each year, is provided by means of a notice to be published in the Diário da República, up until 31 December of the previous year.

XV. TAX OFFENCES

CONFLUENCE OF ADMINISTRATIVE OFFENCES

The General Regime of Tax Offences (RGIT), reintroduces the regime of material accumulation of fines specifically applied to a confluence of infringements, which is characterised by application of a fine resulting from the arithmetic sum of the amounts of fines specifically applied to each of the administrative offences in confluence, without grounds for any limitation on the amount to be paid. The purpose of this measure is to remove the figure of judicial accumulation in the event of confluence of administrative offences, currently specified in the General Regime of Tax Offences (RGIT) and, which, in the abstract, is more favourable to offenders, given that someone who has practised various administrative offences will be punished with a single fine with the maximum amount of the sum of the fines that are applied, provided that this does not exceed twice the highest maximum limit of the administrative offences in confluence and with a minimum amount corresponding to the highest amount of the fines specifically applied to various administrative offences.

Example:

Administrative offence	Fine in the abstract	Specific fine	Judicial accumulation	Material accumulation
Failure to submit tax payment	€ 30.000	€ 30.000	between €30.000 e €60.000	€150.000
Failure to submit tax payment	€ 30.000	€ 30.000		
Failure to submit tax payment	€ 30.000	€ 30.000		
Failure to submit tax payment	€ 30.000	€ 30.000		
Failure to submit tax payment	€ 30.000	€ 30.000		

XVI. TAX INCENTIVES SYSTEM IN BUSINESS RESEARCH AND DEVELOPMENT II

TIME FRAME

The Tax Incentives System in Business Research and Development (SIFIDE) II is approved, for the tax periods between 2011 and 2015, in an identical form to SIFIDE I, (created by Law no. 40/2005, of 3 August), which remained in force until the end of 2010.

ADDRESSEES

This incentive is available to corporate income taxpayers resident in Portugal that exercise, on a principal basis or otherwise, an agricultural, industrial or commercial activity and services and non-residents with a stable establishment in Portugal, whose taxable profit is not specified by indirect means and which, cumulatively, do not owe any taxes or contributions to the State and Social Security, or have duly guaranteed any outstanding amounts.

STATE BUDGET 2011: TAX AMENDMENTS TAX AMENDMENTS

ELIGIBLE EXPENSES	Deductibility of Research and Development (R&D) expenses is provided for. This is related, in general, to: investments in real-estate properties and financial investments; staff; registration, maintenance and acquisition of patents in the framework of R&D activities; and execution of R&D projects that are necessary for compliance with public contractual obligations.
ACCESS	In order to benefit from SIFIDE II, taxpayers must: present a declaration proving that they have no debts outstanding to the State and Social Security, as of the month prior to submission of the periodic tax income declaration; present a declaration, or proof of presentation of the respective request for issuance thereof, issued or to be issued, by an entity nominated by a Ministerial Order by the Minister of Science, Technology and Higher Education, that confirms that the activities exercised or to be exercised effectively constitute research and development initiatives and, also, the respective amounts at stake and, also, calculation of the increase in expenses in relation to the average of the two previous financial years; present a document demonstrating calculation of the tax benefit; and guarantee that its accounts duly record the tax that will cease to be paid as a result of the tax deduction, through mention of the corresponding amount in the annex to the balance sheet, and statement of net income for the financial year in which the deduction is made.
TAX DEDUCTION	The addressees of this incentive may deduct from their corporate income tax liability (IRC) calculated under the terms of the IRC Code, and up to its full amount, the portion of R&D expenses that is not co-funded by the State, in the form of a non-reimbursable subsidy, incurred between 1 January of 2011 and 31 December 2015, considering a base rate of 32.5%, to which should be added an incremental rate of 50% of the increased expenses incurred in relation to the simple arithmetic average of the two previous financial years, up to a limit of 1.5 million euros; the 50% incremental rate should be increased by 20% for expenses related to contracting PhD graduates by companies, for Research and Development activities, and the limit is 1.8 million euros.
REPORTING EXPENSES	Provision is made to maintain the possibility of reporting expenses that have not been deducted in the financial year in which they were incurred, due to insufficiency of the respective tax liability, up to the sixth financial year immediately afterwards.
ACCUMULATION OF BENEFITS	The tax deduction in question cannot be accumulated, for the same investment, with tax benefits of the same nature specified in other legal diplomas.
NOVELTIES	The main novelties introduced within SIFIDE II, in comparison with SIFIDE I, are as follows: elimination of the 55% limit on operating expenses with staff directly involved in R&D activities; eligibility requirements for expenses related to execution of R&D projects that are necessary for compliance with public contractual obligations; introduction of a specific rule that applies to SME, providing that, when these corporate income taxpayers have not yet traded for 2 financial years, and therefore cannot benefit from the incremental rate of 50% specified in the framework of the deduction, an increase of 10% shall be applied to the base rate of 32.5%; introduction of a specific norm, applicable to taxpayers who reorganise their activities through business concentration, such as mergers, demergers, entry of assets and exchange of shareholdings, providing, in such cases, transfer of this tax benefit; and introduction of an obligation to communicate to the Directorate General for Taxation (DGCI), by electronic means, identification of the beneficiaries and, also, the amount of the expenses considered to be eligible, as of the year prior to that of the communication, to be complied with by the entity in charge within the Ministry of Science, Technology and Higher Education up to the end of the month of February of each year.

XVII. NEW BANKING TAX

SUBJECTIVE INCIDENCE

In order to bring the financial burden of the financial sector closer to that of the rest of the economy and ensure that the sector contributes in a more intensive manner to the effort to consolidate public accounts and to prevent systemic risks, a new “extraordinary” contribution on the banking sector is provided for, to be paid by: credit institutions that have their main and effective registered management office in Portugal; subsidiaries located in Portugal of credit institutions that do not have their main and effective registered management office in Portugal; branches, in Portugal, of credit institutions whose main and effective registered office is located outside the European Union (i.e. in third countries).

OBJECTIVE INCIDENCE

Provision is made for the above contribution to be charged upon liabilities, as calculated and approved by taxpayers, minus core equity capital (TIER 1) and complementary capital (TIER 2) and deposits covered by the Deposits Guarantee Fund and, also, upon the notional amount of off-balance sheet derived financial instruments, as calculated by taxpayers.

RATES

A variable rate between 0.01% and 0.05% is charged upon liabilities, in function of the calculated amount, and a variable between 0.0001% and 0.0002% is applied to the notional amount of financial instruments, in conformity with the calculated amount. The rates that specifically apply in this regard, will be regulated by an order in council to be issued by the Minister of Finances, after consulting the Bank of Portugal, which, given that this is a new tax, may raise problems of constitutionality, in particular concerning the form of determination of the aforementioned rate.

SELF-ASSESSMENT

Provision is made for the new banking tax to be assessed and paid by the taxpayer using an official tax form, to be approved by an order in council issued by the Minister of Finances. This form should be sent annually, via electronic data transfer, up to the last day of the month of June. This date is also the deadline for making the respective payment. On a subsidiary basis, the rules specified in the General Tax Law and in the Tax Procedure and Process Code should also apply to settlement, collection and payment of the contribution.

NON-DEDUCTION FROM IRC

This new contribution cannot be deducted from the corporate income tax liability (IRC).

XVIII. OTHER

REGISTRATION OF TAXPAYERS

The Government is authorised to review and systematise all regulations related to attribution and management, solely for fiscal purposes, of taxpayers’ fiscal identification number by the Directorate-General for Taxation. In relation to the extent and reach of this legislative authorisation, this covers: inclusion in a single diploma of the legal provisions related to creation of the taxpayer number; standardisation of the rules applying to the issue of the fiscal identification card and the rules applying to the citizen’s card, company card and corporate body card; and introduction of procedures aimed at simplifying the taxpayer’s compliance with its tax obligations.

ELECTRONIC NOTIFICATIONS

Legislative authorisation is granted to the Government to make notifications via electronic data transfer, specifically within the framework of the tax procedure and process, and without recourse to the electronic post box, using the declaration information systems managed by the Directorate-General of Customs and Special Consumption Taxes (DGAIEC).

MUTUAL ASSISTANCE AND RECOVERY OF CREDITS

The Government is also authorised to transpose the Community Directive, in relation to the mutual assistance mechanism, in terms of recovery of credits between the

STATE BUDGET 2011: TAX AMENDMENTS TAX AMENDMENTS

Member States of the European Union (Directive 2010/24/EU) – in order to attain the objectives of speed and effectiveness and to combat fraud – and, also, to revoke the regime of mutual assistance for collection of credits currently in force.

WINES AND WINE PRODUCTS

The Government is authorised to review the regime of the rates charged on wines and wine products, in order to differentiate the rate applying to financing the costs of the activity of controlling and coordinating the wine sector by the Institute of Wine and Vine, I.P., from that applying to financing its promotional activity, and also create distinct rates for exercise of general coordination of the winemaking sector that focuses upon wine products sold in Portugal and wine products produced at the national level.

LISTS OF TAXPAYERS

Provision is made for the disclosure of lists of taxpayers specified in the General Tax Law, to also apply to taxpayers with debts outstanding to Social Security.

AUDIOVISUAL CONTRIBUTION

The monthly amount of the audiovisual contribution to be paid in 2011 is set at €2.25 (it is currently €1.74).

EXTRAORDINARY SOLIDARITY CONTRIBUTION

Retirement, pensions, subsidies and other monetary payments of an identical nature, paid to a single beneficiary, whose monthly amount is higher than €5000 will be subject to an extraordinary contribution of 10%, that will apply to the amount that exceeds €5000 and will be paid to the Social Security and to the Caixa Geral de Aposentações, I.P. (Civil Servants Pension Scheme). This extraordinary contribution covers the sum of pensions, retirement benefits and equivalent benefits and the lifetime monthly subsidies paid by the Caixa Geral de Aposentações, I.P., by the National Pensions Centre and, directly or by the intermediary of pension funds, by any public bodies, independently of the respective nature and degree of independence or autonomy, in particular those payments borne by public institutes, regulatory, supervision or control authorities, and public companies, of a national, regional or municipal framework. This measure may also pose questions of constitutionality, in particular given that it applies to income that has already been taxed, in terms of IRS, and may therefore represent “double taxation” of income, and also stand in breach of the principle of equality, i.e. the constitutional rules that establish that income tax must be single and progressive.

Rogério M. Fernandes Ferreira
PARTNER, COORDINATOR OF THE
TAX PRACTICE AREA
(arfis@plmj.pt)

“Portuguese Law Firm of the Year”
Chambers Europe Excellence 2009, IFLR Awards 2006 & Who’s Who legal Awards 2006, 2008, 2009

“Corporate Law Firm of the Year - Southern Europe”
ACQ Finance Magazine, 2009

“Best Portuguese Law Firm for Client Service”
Clients Choice Award - International Law Office, 2008, 2010

“Best Portuguese Tax Firm of the Year”
International Tax Review - Tax Awards 2006, 2008

Mind Leaders Awards™
Human Resources Suppliers 2007

This Informative Note is intended for general distribution to clients and colleagues and the information contained herein is provided as a general and abstract overview. It should not be used as a basis on which to make decisions and professional legal advice should be sought for specific cases. The contents of this Informative Note may not be reproduced, in whole or in part, without the express consent of the author. If you should require further information on this topic, please contact arfis@plmj.pt

Lisbon, 3 January 2011