

# MOVING FROM THE UK TO PORTUGAL - FREQUENTLY ASKED QUESTIONS



Utmost PanEurope dac has prepared this guide for individuals moving from the UK to Portugal. The guide considers some of the FAQ's covering visas, residence, tax and succession law. Utmost PanEurope dac does not provide tax or legal advice.

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## FREQUENTLY ASKED QUESTIONS

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### 1. DO I NEED A VISA TO LIVE IN PORTUGAL?

You do not require a visa if you are:

- › a citizen from a European Union State
- › a citizen from a European Economic Area State (Iceland, Liechtenstein & Norway), or
- › a citizen of a third-country with whom the EU has signed freedom of movement agreements (e.g. Switzerland).

Family members of Portuguese citizens or of foreign nationals, included above, can also be exempted (under certain conditions).

UK citizens require a visa to live in Portugal.

If you do not require a visa but you remain in Portugal for more than three months, you must request a certificate from the City Hall of the area of your residence which, if granted, will formalise your right of residency in Portugal.

### 2. WHAT TYPE OF VISA DO I NEED?

The type of visa required will be determined based on the purpose of your move to Portugal. The four main types of visa are for:

- › living in Portugal and family reunification:
  - General regime
  - Start-up visa
  - Investment visa
  - Family reunification
  - Others

› working in Portugal:

- Employed
- Self-employed
- Highly qualified
- Transferred workers

› studying in Portugal:

- Higher, professional, secondary education
- Researchers
- Volunteers
- Trainees

› special situations:

- Residence permit with residence visa exemption

The general requirements with respect to a visa application include: verifying your identity, demonstrating no criminal record, registering for tax, and evidencing access to accommodation and sufficient means subsistence. However, each type of visa has its own specific requirements. Full details are available on the Portuguese emigration service website at the following link:  
<https://imigrante.sef.pt/en/solicitar/>

### 3. HOW DO I DEMONSTRATE SUFFICIENT MEANS OF SUBSISTENCE?

With reference to visa applications where you need to provide proof that you have sufficient means of subsistence to live in Portugal, the Authorities generally wish to see regular stable income streams, such as employment income or pension income.

Investment income, or income from life assurance policies, may also be taken into account, but would be secondary to employment or pension income.

#### 4. WHAT ARE THE TAX RESIDENCY RULES IN PORTUGAL?

You will be treated as tax resident in Portugal under the Portuguese tax rules in the following circumstances:

- › you stay in Portugal for 183 days or more in any 12-month period, or
- › you move your habitual residence to Portugal on any given day of the 12-month period.

Portugal also has the concept of split-year residency.

#### EXAMPLE 1

On 30 July 2021 John moved to Portugal and stayed until 3 August 2022.

John stayed in Portugal for more than 183 days in a 12-month period. As such, John qualifies as a Portuguese tax resident from 30 July 2021 until 3 August 2022.

On John's annual Portuguese tax return for the year 2021, he will need to report his worldwide income for the period from 30 July 2021 until 31 December 2021.

Additionally, on John's annual Portuguese tax return for the year 2022, he will need to report his worldwide income for the period from 1 January 2022 until 3 August 2022.

#### EXAMPLE 2

After getting divorced, Ben decided to leave the UK and bought a house in Portugal on 1 October 2020. However, in October 2021 Ben's mother got very sick and he had to relocate back to the UK. Ben travelled back to the UK on 5 October 2021.

Ben had his habitual residence in Portugal for 12 months. As such, Ben qualifies as Portuguese tax resident from 1 October 2020 to 5 October 2021.

On Ben's annual Portuguese tax return for the year 2020, he will need to report his worldwide income for the period from 1 October 2020 to 31 December 2020.

Additionally, on Ben's annual Portuguese tax return for the year 2021, he will need to report his worldwide income for the period from 1 January 2021 to 5 October 2021.

#### 5. CAN I BE TREATED AS TAX RESIDENT IN THE UK AND PORTUGAL IN THE YEAR OF ARRIVAL IN PORTUGAL?

Yes, due to the tax rules in the respective jurisdictions, it is possible to be treated as a tax resident in both Portugal and the UK in the year of your arrival in Portugal.

As both Portugal and the UK have adopted the split year residence concept, an individual might be considered as tax resident in Portugal for a certain part of the calendar year and as UK tax resident for other part of the calendar year. However, overall you should only have one tax residency.

It should also be noted that the UK tax year runs to 5 April and the Portuguese tax year runs to 31 December.

Using the first example from question 4, in the year 2021, John will be UK tax resident until 29 July 2021 and Portuguese tax resident from 30 July 2021.

Split year treatment will apply in the UK as John left the UK to start work and was previously UK resident prior to his departure. The overseas part of the tax year will start on the first working day.

#### 6. WHAT ARE THE GENERAL TAX RULES IN PORTUGAL?

Portuguese tax residents are taxed on their worldwide income. Non-Portuguese tax residents are only taxed on their Portuguese source income (e.g. rental income from a Portuguese property).

#### 7. HOW IS DIVIDEND INCOME TAXED IN PORTUGAL?

Dividends, payable from your directly held share portfolio, are taxed at the 28% rate or the 35% rate (if the paying entity is in a jurisdiction on Portugal's blacklist). However, you may opt to be subject to the marginal rates varying between 14.5% and 48% by aggregating the dividends with other income.

#### 8. HOW IS INTEREST INCOME TAXED IN PORTUGAL?

Interest income from your Portuguese bank account is taxed at the 28% rate. However, you may opt for your income to be subject to the marginal rates on your tax return (varying between 14.5% and 48%).

Interest income arising from bank accounts outside Portugal is taxed at a flat rate of 28% in Portugal. However, if the bank account is held in a jurisdiction on Portugal's blacklist the interest is taxed at a higher fixed rate of 35%.

#### 9. HOW IS RENTAL INCOME TAXED IN PORTUGAL?

Rental income from a property owned directly by you is taxed at the 28% rate. However, it's possible to aggregate the rental income with other income on the tax return and be taxed at marginal rates that can vary between 14.5% and 48%.

#### 10. HOW ARE CAPITAL GAINS TAXED IN PORTUGAL?

As a general rule, capital gains of Portuguese tax resident individuals are taxed at 28%. However, if it is a gain from the sale of shares held in micro and small companies not listed in the stock market, only 50% of the gains will be subject to taxation (i.e. an effective rate of 14%).

Gains from the sale of real estate by a Portuguese tax resident will be taxed at the marginal rates varying between 14.5% and 48%. With respect to the main residence of an individual, if, within the 36 month period following the sale of the real estate or within the 24 month period prior to the sale, the gain is reinvested for:

- › an acquisition;
- › the improvement; or
- › the construction

of another main residence in Portugal, or within the European Union, the gain can be totally or partially exempt.

## 11. WHAT ARE THE MARGINAL TAX RATES IN PORTUGAL IN 2021?

The marginal tax rates in 2021 are as follows:

INCOME	TAX RATE	DEDUCTION
€7,112	14.5%	-
+€7,112 - €10,732	23%	€604.54
+€10,732 - €20,322	28.5%	€1,194.80
+€20,322 - €25,075	35%	€2,515.63
+€25,075 - €36,967	37%	€3,017.27
+€36,967 - €80,882	45%	€5,974.54
+€80,882	48%	€8,401.21



Please note that the marginal rates and income brackets may be subject to change on an annual basis.

## 12. DOES PORTUGAL HAVE INHERITANCE TAX?

In Portugal inheritance tax is referred to as Stamp Duty. It is a tax due on lifetime gifts and inherited assets. Portuguese Stamp Duty is only due on Portuguese situated assets.

A 0.8% Stamp Duty is due on a property donation.

A 10% Stamp Duty is due on the free acquisition of goods by individuals through gifts or inheritance. However, parents, spouses and children are exempt.

## 13. DOES PORTUGAL HAVE WEALTH TAX?

No. Portugal does not currently have wealth tax.

## 14. WHAT IS THE NON HABITUAL RESIDENCE ("NHR") REGIME?

It is a tax status granted by Portugal since 2009 to attract investors and professionals of high cultural and economic worth, in order to increase the country's international competitiveness.

The regime is available to all individuals becoming tax resident in Portugal (if they were not a Portuguese tax resident in the previous five years). The status is granted for a period of 10 consecutive years.

## 15. WHAT ARE THE TAX ADVANTAGES OF THE NHR REGIME IN RESPECT OF PORTUGUESE SOURCE EMPLOYMENT INCOME?

Portuguese employment and self-employment income can be liable to a special 20% flat rate if derived from high value added activities of scientific, artistic or technical character performed in Portugal, as listed in a Ministerial Order.

**Examples of high value added activities include:**

- › Directors and executives of production, industry, services and business companies

- › Doctors
- › University teachers
- › Engineering, IT, communication, scientific and related specialists and technicians
- › Journalists, and
- › Artists.

## 16. WHAT ARE THE TAX ADVANTAGES OF THE NHR REGIME IN RESPECT OF FOREIGN (I.E. NON-PORTUGUESE SOURCE) INVESTMENT INCOME AND GAINS?

In general, foreign source dividends, interest, capital gains and rental income, can be exempt from Portuguese income tax if the income is liable to tax in the country of source, according to the applicable double tax treaty.

**The Portuguese tax exemption does not require that the source country actually applies tax to the income. The treaty just has to state that the country is entitled to tax the income. If the foreign country does not take up their tax rights, the income is effectively tax free but if the foreign country does exercise their rights, the income is subject to tax in the foreign country.**

**Therefore, any tax advantage is very much dependent on whether foreign tax is applied.**

## EXAMPLE

Rachel is tax resident in Portugal and has benefited from the NHR regime since 2020.

In 2021 Rachel received dividends from directly held UK shares.

The double tax treaty between Portugal and the UK allows the UK to tax the dividends. As such, Portugal will exempt the UK dividend income under the NHR regime. However, the UK does not apply any withholding tax to the dividend income. In summary, the UK dividend income is effectively tax free.

The double tax treaty between Portugal and Switzerland allows Switzerland to tax the dividends. As such, Portugal will exempt the Swiss dividend income under the NHR regime. Switzerland does apply a 35% withholding tax to the dividend income. In summary, the Swiss dividend income is subject to tax at 35%, or 15% if the paying entity uses the double tax treaty limits to tax the dividends.

## 17. WHAT ARE THE TAX ADVANTAGES OF THE NHR REGIME IN RESPECT OF FOREIGN (I.E. NON-PORTUGUESE SOURCE) PENSION INCOME?

Portugal introduced in its annual 2020 State Budget, a 10% tax rate on the foreign-source pension income for "non-habitual residents." This was in response to concerns raised by some EU countries, over discriminatory tax regimes resulting in zero-taxed income.

Currently, foreign source pensions (including periodic and lump sum payments from life insurance policies, pension funds, retirement savings plans and other complementary social security regimes) are liable to a 10% flat rate. A tax credit will be available for the tax paid abroad, limited to the taxes due in Portugal for such income.

The same rule is applicable to early retirement income paid by the foreign country's social security authorities

and pension funds, as well as employment income related to benefits attributed to the employee from life insurance premiums, pension funds, or other contributions paid by the employer, when not previously subject to taxation.

It is important to note these new rules apply to individuals registered as tax residents as of April 1 2020. Individuals already registered as NHRs or that registered as tax residents before April 1, 2020 (who applied for the NHR regime within the deadline) may elect to benefit from the exemption regime previously in force. In summary, the pension taxation is as follows:

- › until 31 March 2020: pension income exempt
- › after 1 April 2020: 10% levied on pensions & lump sum payments.

#### 18. DOES UTMOST SELL A LIFE INSURANCE PRODUCT IN PORTUGAL DESIGNED FOR THE UK EXPAT MARKET?

Yes. Utmost PanEurope dac sells a life assurance product called Apex (Portugal), which is specifically designed to meet the needs of UK expats who are living in Portugal and may return to the UK in the future.

#### 19. WHAT ARE THE TAX ADVANTAGES OF INVESTING IN APEX (PORTUGAL)?

The tax advantages of Apex (Portugal) include:

- › Gross roll up on income and gains within the policy
- › Lower tax rates on surrender payments, depending on the length of time policy is held
- › Reduced local withholding tax at source on dividend income
- › Death benefit payments to beneficiaries are not subject to inheritance tax in Portugal (referred to as Stamp Duty).

When assets are sold within the policy and/or income arises, no Portuguese taxes will be due as the policy benefits from gross roll up. Portuguese tax only arises when a surrender is made.

If a total or partial surrender is made, the proportional capital gain is subject to Personal Income Tax, with the following reductions in the tax rates (provided that premiums paid in the course of the first half of the policy term are at least 35% of total premiums):

YEARS LIFE POLICY IS HELD	TAX RATE	AMOUNT OF TAXABLE INCOME SUBJECT TO TAX	EFFECTIVE TAX RATE
five years or less	28%	100%	28%
More than five years and less than eight years	28%	80%	22.4%
More than eight years	28%	40%	11.2%

The withholding tax at source on dividend income within the policy can be reduced, as the beneficial owner of the income is treated as Utmost PanEurope dac (an Irish tax

resident company which benefits from tax treaties with numerous countries). For example, the withholding tax rate is 1.2% (vs the standard rate of 26%) in Italy, is 15% (vs the standard rate of 30%) in the US and is 0% (vs the standard rate of 25%) in Ireland.

Additionally, death payments to beneficiaries of insurance policies are out of scope of Portuguese Stamp Duty (Imposto do Selo), even for distant or non-existent degrees of kinship.

#### 20. CAN I BENEFIT FROM THE TAX ADVANTAGES OF A LIFE POLICY IF I AM IN THE NHR REGIME?

Yes, the tax advantages (outlined in question 19) also apply to Portuguese residents in the NHR regime. There is no difference in the tax treatment of surrender payments from life policies for individuals in NHR or other Portuguese tax residents that are not in the NHR regime.

#### 21. CAN I REINVEST THE PROCEEDS FROM THE SALE OF A HOUSE IN PORTUGAL INTO A LIFE INSURANCE PRODUCT AND DEFER THE TAX ON THE GAIN?

Yes, subject to satisfying the below conditions:

- 1) The individual or the spouse at the time the main home is sold are retired or have reached 65 years of age
- 2) The product needs to be bought within six months after the sale of the main house
- 3) The product's exclusive purpose is to allow the policyholder, or the spouse, to obtain a regular payment for a period of 10 years or more
- 4) The annual total of regular payments cannot exceed the annual maximum amount of 7.5% of the invested amount.

On the Apex (Portugal) product, Utmost PanEurope dac can help you satisfy the requirement of setting-up regular payments that don't exceed the annual maximum amount of 7.5% of the invested amount, during the required 10 years' period. In our view, this should meet the requirement and intention of test 3 above. However, this is a subjective test which has not been tested in the Courts of Portugal and the use of the word "exclusive" is a high threshold to satisfy. Therefore, the Portuguese Tax Authority may seek to challenge certain cases depending on individual fact patterns.

#### 22. CAN I KEEP MY INSURANCE INTERMEDIARY IF I WANT TO BUY A PORTUGUESE UNIT-LINKED LIFE INSURANCE PRODUCT?

You may keep any EU Intermediary you may have already appointed upon subscription of the unit-linked life insurance product (i.e. an intermediary authorised by the competent authority of any EU/EEA Member State), provided that such Intermediary is:

- › authorised to passport its services and activities into Portugal on a freedom of services or on a branch basis
- › duly registered with ASF Register of EU/EEA Authorised Intermediaries, and complies with ASF list of General Good Rules applicable to EU intermediaries and available for consultation on the ASF website.

Where the Insurance Intermediary does not meet the conditions outlined on the previous page, you will need to appoint a new Insurance Intermediary. The new Intermediary must be authorised to carry out business in Portugal through registration with the ASF.

### 23. WHAT ARE THE SUCCESSION LAW RULES IN PORTUGAL?

Portugal has forced heirship rules and the succession law is applicable to the worldwide assets of Portuguese residents. The only exception is non-Portuguese real estate.

Under Portuguese succession law a reserved share is established, varying between one half and one third of the total value of the estate, which the testator cannot freely dispose of and which is destined for the forced heirs (the spouse, descendants and ascendants).

When non-Portuguese citizens plan their succession in Portugal, it's also important to consider that Portugal has implemented the EU Regulation n. 650/2012 of the European Parliament and of the Council of July 4, 2012. This means, that as a rule, Portugal has established the connecting factor of the habitual residence of the deceased at the time of death, unless the deceased chose his/her nationality law or if he/she was manifestly more closely connected with another State. As a result, non-Portuguese citizens may face the situation where the chosen beneficiaries will not inherit the assets, unless specific planning arrangements are set-up.

A unit-linked life policy may serve as a possible solution to exclude part of the assets of foreign citizens residing in Portugal from the application of Portuguese succession rules. Notwithstanding, it is also recommended to have a will. Ideally, one will in each country where the relevant assets are located.



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