

Tax Issues (IRS)

What is Personal Income Tax (IRS) and how does it work?

IRS aims at the global and personalized taxation of individuals' income, through a broad concept of income and the relevance of an important set of charges as well of both personal and family kinds.

The tax is calculated individually regarding each spouse or cohabiting partner. If case the optional scheme, joint taxation, is chosen, the due tax is the sum of the income of the persons forming the household; those who are responsible for its management are considered as taxpayers.

To determine the amount of tax due, one must apply to to the taxable income ascertained the corresponding tax rate and take in consideration the legally permitted deductions over the payable tax.

How does the partial residence system work?

The partial residence allows the taxpayer to be considered as resident in national territory only for a part of the year, as long as he/she stays there for a period longer than 183 days, either consecutively or non-consecutively, in any 12 months period. It will also be considered resident a person who, having stayed in the country for less time, it has housing there, so he or she has supposedly current intention to maintain it and occupy it as usual residence.

In these conditions, such a person shall be considered a resident in Portugal from the 1st day of stay, day of presence meaning any full or partial day that includes overnight stay, the residence ceasing on the last day of stay in national territory.

Are there any exceptions to the partial residence regime?

If the taxpayer meets at any time of the year the conditions to be resident and in the previous year he or she was also considered as resident in national territory, the tax residence is considered obtained from the first day of the year of return.

Additionally, even though the general regime is that the last day of stay in national territory determines the end of residence, the taxpayer will always be considered as resident in Portugal during the whole year if:

a) He or she remains in Portugal for a period longer than 183 days, either consecutively or non-consecutively, and has obtained, in that year and after the last day of stay, taxable income by IRS and non-exempted, if he or she was considered resident, unless he or she could prove that such income is taxed by a similar tax:

i) in another Member State of the European Union or in the European Economic Area (in the latter case provided that there is an information exchange on tax matters and that there is administrative cooperation on tax matters); or

ii) In another State, where the tax rate is not less than 60% of that which would be applicable if the taxpayer were considered a resident in Portugal;

b) Or, in the year following that in which the taxpayer lost that status, he or she has acquired again the resident status.

In the year of my arrival and in the year of my departure from Portugal, what income should I declare in Portugal?

Regarding the period in which you have been considered as tax resident in Portugal, you must declare the income obtained both in Portugal and abroad.

Until the first day of stay (in the year you arrive in Portugal), or from the last day of stay (in the year in which the tax residence ends), you must declare only the income that, for IRS purposes, is considered to have been obtained in national territory and for which submitting a declaration as a non-resident is compulsory.

How should I fulfil my compulsory declarations the year of departure from Portugal?

In the year you depart you must submit two declarations of income, without prejudice to the possibility of exemption in general terms: a declaration for the period in which you were considered resident, stating all income obtained during that period in Portugal and abroad; and another declaration for the period in which you were considered non-resident, in which you must declare only the income you obtained in Portugal.

You must appoint a tax representative when you move to a foreign country not belonging to the European Union or the European Economic Area, and in the latter case as long as that State is bound to administrative cooperation in the domain of taxation that is equivalent to that established within the European Union.

How do I declare my income and what is the deadline?

Taxpayers who obtain IRS taxable income, if they are not exempted, are obliged to submit their IRS declaration form “Model 3”, with its annexes every year, depending on the type of income acquired, by electronic data transmission.

If you pursue an independent activity, you should submit the declaration of beginning of activity, before it is start it.

From 2019 onward (inclusive), the duty of declaration the income you obtained in the previous year must be fulfilled from 1 April to 30 June.

Whenever your income is obtained abroad and entitles it to an international double taxation credit and whenever its amount is not determined in the state in which it was obtained, the declaration period is extended until December 31 of that year.

These duties may also be fulfilled within 30 days following the occurrence of any fact that alters the income already declared or that implies, in relation to previous years, a duty to declare it, unless another deadline is determined in this Code.

If I am a tax resident in Portugal, should I cancel my tax residence in my country of provenance?

With regard to the formalities to be fulfilled on tax residence in the country of provenance, the legislation of that country should be taken into account. As such, you should contact the Tax Administration of that country for additional clearing up concerning the procedures to be adopted.

As an immigrant, what are my duties are, in relation to taxes?

As soon as you obtain income in Portugal, you will be covered by several tax duties.

In order to fulfil these duties, you ought to demand a Tax Identification Number (NIF) from a Tax Office or Citizen’s Shop. This number you will identify your before the Tax and Customs Administration (AT).

Must I have to declare the composition of my household (spouse and dependents)?

Until 15 February, taxpayers may declare at the Finance Website, the relevant personal details, namely the composition of their household on the last day of the year to which the tax relates, by means of authentication of all household members.

If I live in a rented house, do I have any advantage in having a rental contract?

A rental agreement, besides being the legal form of the written agreement between property owner and tenant, is always a means serving to safeguard rights and duties regarding each of the parties.

On the other hand, for IRS purposes, 15%, up to the limit of EUR 502 (2018), of the amounts, net of official allowances or coparticipations, supported as rent by the tenant of an urban building or its autonomous portion for permanent housing purposes, are deductible when referring to rental agreements in accordance with the Urban Rental Regime (RAU), approved by the Decree-Law nr. 321-B/90, of 15 October, or with the New Urban Rental Regime approved by Law nr. 6/2006, of 27 February.

I am an employee. What my duties are?

Income from employment is IRS taxable, being considered as such all wages paid or made available to an employee.

At the beginning of an employee, or before the first payment or before the first income from work is made available, you must inform the employer of the essential data relating to your personal and family situation, and you ought to report to him any tax relevant change that may occur subsequently.

Any income from work is subject to withholding tax at the time of payment or made available.

I have decided to be self-employed. What must I do?

Before starting any activity that may produce income from self-employment (Category B), IRS taxable, the person concerned must report it to the Tax and Customs Authority (AT), through a Declaration of Beginning of Activity.

The income obtained by self-employed workers include that acquired from any commercial, industrial, agricultural, forestry or livestock activity, as well as any compensation deriving from the exercise of a service provision as self-employed, whether listed in the table referred to in article 151 of the IRS Code or in the Portuguese Classification of Economic Activities (CAE).

As a self-employed person, what other tax duties do I have?

You must necessarily submit an invoice, receipt or receipted-invoice, in an official model, of all amounts received from your customers, for the supply of goods or services provisions, even if as a provision, advance or expenditure reimbursement, as well as issue a discharge document for all amounts received.

It should record in books, or in an accounting system that meets the appropriate requirements for the correct determination and monitoring of the tax amounts, the sums received, the charges to be deducted from gross income and the sums that concern to reimbursements of expenses made in the name and on behalf of the client.

The income from self-employment is determined by application of the rules deriving from the simplified scheme, or based on the accounting (organised according commercial law).

If I have a business activity what are the tax duties?

The income deriving from the pursuing of commercial and industrial or agricultural activities, forestry and livestock farming under freelance scheme are subject to IRS taxation.

The same way as self-employed workers, likewise sole proprietors pursuing commercial and industrial activities or agricultural, forestry or livestock farming activities, have mandatorily to declare the beginning of their activity, common to IRS and VAT. They may do so by electronic data transmission, through Internet, in any Financial Service or Citizen's Shop, by means of a verbal declaration processed by computer, or exceptionally in an official form.

Business income is determined based on the application of the rules deriving from the simplified scheme or based on accounting.

The simplified scheme applies to income holders who, in the course of their activity, have not exceeded an annual gross amount of income within this category of EUR 200,000 in the immediately preceding tax period.

Holders of income covered by the simplified scheme may choose to have their income based on accounting, and this option must be declared formally by taxpayers:

i) In the declaration of beginning of activity;

ii) By the end of March of the year in which they wish to modify the basis in which the income is determined, by submitting the modifying declaration.

This option remains valid until the taxpayer submits the changes declaration, which shall take effect from the same year in which it is submitted, if it is made until the end of March.

Sole proprietors are subject to the same duties as self-employed workers with regard to the report of income and withholding tax relating to the income allocated or made available to their employees, dependent workers.

Do I have to submit any declaration about the income received or the sales made?

Os sujeitos passivos que obtenham rendimentos empresariais estão obrigados a apresentar a declaração modelo 3 de IRS com o anexo B ou C, consoante estejam enquadrados no regime simplificado ou contabilidade organizada e ao cumprimento de obrigações comuns com o IVA. Taxpayers who obtain business income must mandatorily submit the IRS model 3 declaration accompanied by annex B or C, whether they are under the simplified scheme or organised accounting, and must as well fulfil common duties concerning VAT.

What type of deductions can then be considered in the determination of IRS amount?

Para além das deduções de natureza pessoalizante (importâncias fixas por cada dependente do agregado familiar e por cada ascendente que viva em comunhão de habitação com o sujeito passivo) e ainda as deduções de natureza técnica por corresponderem a imposto retido na fonte ou a pagamentos por conta, para efeitos do cálculo do imposto a entregar são ainda deduzidas à coleta diversas despesas até determinados limites:

In addition to deductions of personal nature (fixed amounts for each dependent of the household and for each ascendant living in communion with the taxpayer) and technical deductions corresponding to withholding tax or payments on accounting, for the aims of determining the tax to be paid, several other expenses can be also deducted, up to certain limits:

- general family expenses;
- health and health insurance expenses;
- education and training expenses;

- housing expenses;
- building charges related to permanent housing;
- tax paid abroad on income IRS taxable;
- tax benefits;
- deductions for disabled people;
- amounts related to maintenance payments;
- deductions for the invoice requirement;
- amount additional to the municipal tax on real estate, according to the terms of Article 135- I of the IMI (municipal tax in real estate owning) Code

What are the requirements regarding expenses that are deductible from the IRS?

Expenses that are deductible from taxation can only be considered if they are registered in documents reported by the issuers to the Tax and Customs Authority, identifying the taxpayer or member of the household to which they relate, through his or her tax number. Such documents may be:

- Invoice, receipt-invoice or receipt, issued pursuant to the the VAT Code or of paragraph a) of the number 1 of the article 115; or
- any other document, whenever the goods or services supplier is exempted from that duty.

In the case that the consumer detects that the invoices are already on his personal e-invoice system page, he or she does not need to keep them; on the contrary, this will no longer be the case if he or she has reported the invoices himself or herself to the Tax and Customs Authority (AT). In this situation, he or she must keep them for a period of 4 years from the end of the year in which the purchase was made, on order to present them to AT, if requested.

Helpful link: <https://www.portaldasfinancas.gov.pt/at/html/index.html>