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LEGAL FLASH | TAX

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2015 State Budget

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2015 STATE BUDGET

Decree 290/XII of the Parliament was published on 12 December last, and includes the final version of the State Budget for 2015 (“2015 State Budget” or “2015 SB”). The 2015 SB will enter into force on 1 January 2015 after being promulgated by the President of the Republic and published in the Official Gazette.

From among the tax measures approved we highlight those with greater impact on the activity of businesses operating in Portugal in the next year.

I PERSONAL INCOME TAX (“IRS”)

3.5% surcharge and tax credit

The 3.5% *IRS* surcharge, as well as the rules concerning withholding during 2015, in the exact terms of 2014, remain in force.

However, provision is made for a tax credit aiming to enable the possible recovery of the value of the surcharge of 2015, depending on the actual *IRS* and VAT revenue in 2015 exceeding the revenue from these taxes estimated in the 2015 SB.

This tax credit will correspond to a percentage of the collection of the surcharge that is equivalent to a proportion of the said revenue excess compared to the value of surcharge withholdings relating to 2015, paid to the State until the end of January 2016.

The effects of the possible application of this tax credit will only be felt in 2016, after the submission of the Form 3 return for 2015.

For the purposes of this regime, it is foreseen that the Tax Authorities will regularly disseminate information relating to the progress of the 2015 revenue from VAT and *IRS*.

Other measures

Notwithstanding certain other specific measures, the majority of which are recurrent, referred to below in respect of tax benefits, the 2015 SB does not provide for other *IRS* measures, which is understandable, given that this tax is currently undergoing a reform that will be embodied in an autonomous piece of legislation.

II CORPORATE INCOME TAX (“IRC”)

Reduction of the tax rate

The general *IRC* rate is reduced from 23% to 21%, in compliance with the first objective of progressive reduction of the nominal tax rate established in Article 8 of Law 2/2014, of 16 January, which effected the Company Tax Reform.

Other measures

Notwithstanding certain other specific measures and the majority of which are recurrent, referred to below in respect of tax benefits, the 2015 SB does not include any other significant measures in terms of *IRC*.

III VALUE ADDED TAX (VAT)

Obligation to issue an invoice

It is clarified that taxable persons that only carry out an one-off taxable transaction, in connection with the pursue of the activities of production, trade or the supply of services, or that, regardless of such connection, fulfils the preconditions for the real incidence of *IRS* or *IRC*, can comply with the obligation to issue an invoice through the *Portal das Finanças* – *i.e.*, by way of the Portuguese Tax Authorities’ website.

VAT recovery from doubtful debts and irrecoverable debts – certification by Certified Auditor

It is explained that the certification by a registered chartered accountant of the documentation relating to the identification of the invoice concerning each doubtful debt and of the purchaser, to the value of the invoice and to the VAT paid, as well as to measures taken by the creditor towards collection of said debt and the failure of those measures, must be made, should the settlement of the claims not depend upon a prior authorisation request, until the end of the term established for the submission of the periodical VAT return or until the date of its submission, should submission occur after such term.

VAT Cash Accounting Scheme

It is clarified that taxable persons that wish to opt for the VAT Accounting Scheme, must do so in October of each year.

Flat-rate scheme for farmers

Further to EU case-law on this matter, a special flat-rate scheme for farmers was added, according to which, taxable persons that opt for the application of this scheme benefit

from tax exemption and are entitled to request compensation from the Tax Authority, calculated on the price of the goods by applying a 6% rate over the total sales and supplies of services effected during the same calendar year.

Termination of the activity on Tax Authority's own motion

Provision is made for the declaration of termination of a company's activity on the Tax Authority's own motion, following a communication from the court pursuant to the Code of Insolvency and Recovery of Companies, without prejudice to the compliance with tax obligations of the tax periods in which taxable transactions are carried out, in which settlements must be made or in which the right to deduction is exercised.

Broadcast Fee

Further to recent case-law (both EU and national) on this matter, it is expressly provided that the broadcast fee is to be included in the VAT taxable basis of advertising services.

IV MUNICIPAL PROPERTY TAX ("IMI") AND PROPERTY TRANSFER TAX ("IMT")

IMI

Reduction of tax rate

Municipalities are granted the possibility, by means of a Municipal Council's decision, to reduce the annual *IMI* rate in view of the number dependants of the household regarding properties intended for his own and permanent abode and coincident with the fiscal domicile of the proprietary.

In this sense the *IMI* rate may be reduced up to 10%, 15% or 20%, in case the number of dependants is 1, 2 or 3, respectively.

Water, energy, and telecom suppliers

Entities supplying water, energy and telecom services are required to report to the tax authorities the contracts entered into with clients, and respective amendments, on a quarterly basis, by the 15th of April, 15th of July, 15th of October and 15th of January, and mandatorily by electronic means. Currently this reporting is only required each six months and the use of electronic means is not mandatory.

Low value properties of taxable persons with low income

The 2015 SB amends the *IMI* exemption scheme provided for in Article 48 of the Tax Benefit Act, which may benefit low value properties of taxable persons with low income.

Accordingly, the family's total annual gross income that cannot be exceeded for the *IMI* exemption to apply is increased from 2.2 times to 2.3 times the annual value of the Social Support Index ("IAS"). In spite of this, the family's total annual gross income becomes relevant, irrespective of its aggregation for *IRS* purposes.

On the other hand, the fiscal value (*Valor Patrimonial Tributário*, "VPT") that cannot be exceeded if the exemption is to be applied is now calculated by reference to the global *VPT* of all the properties belonging to the family rather than only by reference to the properties belonging to the taxable person.

Provision is now made for the exemption to include storerooms, pantries and garages, albeit physically separated, but forming part of the same building or residential complex, provided they are solely used by the owner or his or her family, additionally to the exempt residence.

It is also now expressly referred that in case of co-ownership the global *VPT* to take into account for exemption purposes is the proportion thereof corresponding to the share of the taxable person and of the other family members.

Finally, the exemptions became automatic and subject to annual recognition by initiative of the Tax Authorities. It is also established that these exemptions shall not apply if the taxpayer or any of the family members fails to comply in due time with their formal compliance obligations regarding *IRS* or *IMI*.

Properties located in business location areas (*Áreas de Localização Empresarial*, "ALE")

The 10 year *IMI* exemption applicable to immovable properties acquired or constructed in *ALE* by their management companies or by enterprises installed therein, remains applicable to properties acquired or concluded up to 31 December, 2015.

IMT

Recognition of exemptions

The exemption from *IMT* applicable to the acquisition of real property by financial institutions or other companies dominated by the former, through *datio in solutum*, will now be automatically recognised where the value on which the *IMT* assessment would be based is EUR 300,000.00 or less and irrespective of it concerning the acquisition of real properties exclusively intended for residence.

Where the value above is exceeded, the exemption depends upon the prior recognition by the member of Government in charge for the area of finance.

On the other hand, the following exemptions, which were formerly subject to prior recognition by the Director General of the Tax and Customs Authority, will now also be subject to automatic recognition:

- Exemptions applicable to legal persons with administrative public utility and mere public utility status, in respect of the assets directly or indirectly allocated to the pursuit of their corporate objectives;
- Exemptions applicable to private care institutions and other organisations legally equivalent to the former, in respect of the assets directly or indirectly allocated to the pursuit of their corporate objectives;
- Exemptions applicable to buildings individually classified as being of national interest, public interest or municipal interest, in accordance with the applicable legislation.

Properties located in business location areas (*Áreas de Localização Empresarial, "ALE"*)

The *IMT* exemption applicable to immovable properties acquired in *ALE* by their management companies or by enterprises installed therein, remains applicable to properties acquired up to 31 December, 2015.

V STAMP DUTY

Assignment of leases and subconcessions

The Stamp Duty Code now expressly establishes that in assignments of commercial, industrial or agricultural leases and in subconcessions and the assignment of concessions effected by the State, by the Autonomous Regions and by Municipalities, the Stamp Duty is charged to the acquirer of the rights, the transferor being the taxable person (*i.e.*, the assignor or the entity granting the subconcession).

Lease, sub-lease and promissory lease agreements

The 2015 SB introduces several amendments and clarifications on the rules regarding lease, sub-lease and promissory lease agreements covered by article 2 of the Stamp Duty General Chart, from among which we highlight the following:

- The tax triggering event is considered to take place on the date of beginning of the lease or sub-lease, of the respective amendments or, regarding promissory agreements, on the date where the property is made available to the lessee;
- The assessment of the Stamp Duty is made by the Tax Authorities, based on the standard return referred to in article 60 paragraph (2) of the Stamp Duty Code through which the lessor or sub-lessor should report the conclusion of lease or sub-lease agreements, respective promissory agreements and amendments of relevance for Stamp Duty purposes;

- The reporting to the Tax Authorities of the termination of the referred contracts is now mandatory;
- In case an exemption applies, reference should be made in the standard return referred to above to the legal provision setting forth such exemption;
- The Stamp Duty is now to be paid within the term set forth to the filling of the standard return referred to above, *i.e.*, up to the end of the month following that of the beginning of the lease or sub-lease, respective amendments, or in case of promissory agreements, up to the end of the month following that when the property is made available to the lessee.

We note that the amendments to the taxation rules applicable to the contracts at stake, namely to articles 5, 8, 23, 41, 42, 44 and 60 of the Stamp Duty Code, will only produce effects as from 1 April, 2015.

VI EXCISE TAXES (“IEC”), VEHICLE TAX (“ISV”) AND ROAD TAX (“IUC”)

IEC

General terms

Provision is made for the reduction by half of the minimum amount of the guarantee provided for the risks of the movement of goods under suspension of excise duty, in case of consignors of products taxed at a rate of zero and of consignors of intermediate products.

Exemptions

Provision is made for the exemption from excise tax of all goods sold in duty-free shops, which are considered to be the establishments located in airports or port terminals, provided those goods are carried in the personal luggage of passengers travelling to a third country or territory.

Goods sold on board aircrafts and ships during the flight or sea crossing to a third country or territory are equivalent to goods sold in duty-free shops.

This exemption is applicable under the terms and with the limits set out in the scheme for VAT and *IEC* exemption on the import of goods carried in the personal luggage of passengers from third countries or territories.

Excise on Alcohol and Alcoholic Beverages

Provision is made for a general increase of the tax rates applicable to beer, intermediate products and spirits.

The only provision made is the decrease of the tax rate applicable to beer with more than 1.2% alcoholic strength, more than 13 plato degrees and with 15 plato degrees or less, from EUR 22.61/hl to EUR 22.29/hl.

Tax on Oil and Energy Products

Provision is made for the maintenance in 2015 of the additional tax rate, in the amount of EUR 0.005/l for petrol and in the amount of EUR 0.0025/l for diesel and for coloured marked diesel, consigned to *Fundo Florestal Permanente* established by Decree-Law No. 63/2004, of 22 March, up to the maximum amount of de EUR 30,000.00/year.

Excise Duty on Tobacco

The objective scope of the Excise Duty on Tobacco has been extended as the same is now also imposed on snuff, chewing tobacco, heated and liquid tobacco and the nicotine-containing liquid, in containers for the fill and refill of electronic cigarettes.

For the purpose of the application of the Excise Duty on Tobacco, in line with the definition set out in Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014, the electronic cigarette is defined as «*a product that can be used for consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank. Electronic cigarettes can be disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges*».

In accordance with the extension of the objective scope of incidence of this tax, the presumption that the possession of certain quantities of manufactured tobacco has a commercial purpose now also concerns the products referred to above, in respect of the following minimum quantities: snuff – 250 gr.; chewing tobacco – 250 gr.; heated tobacco – 20 gr.; nicotine-containing liquid, in container for the fill an refill of electronic cigarettes – 30 ml.

The regime provided for in the Excise Duties Code (*CIEC*) with regard to the circulation of goods under suspension arrangements, loss or destruction of goods and guarantees scheme, will not apply to the circulation of tobacco leaves for sale to the general public, of snuffs, chewing tobacco, heated tobacco and of nicotine-containing liquid, in spite of it being provided that these goods may be placed in tax warehouses under tax suspension arrangements.

Provision is made for several amendments to the taxes/excises rates applicable to determine the Excise Duty on Tobacco:

- The rates applicable to cigarettes released for consumption in Mainland Portugal have been changed as follows: specific element – EUR 88.20 (currently corresponding to EUR 87.33).

- With regard to the rates applicable to cigarettes manufactured in the Autonomous Regions of Azores and Madeira under the small producers scheme (*i.e.*, whose annual production does not exceed 500t.) to be consumed in the Autonomous Region of Azores, the minimum tax has been increased from 50% to 60% of the minimum tax applicable in Mainland Portugal (*i.e.*, 104% of the tax imposed on cigarettes corresponding to the Most Popular Price Category of the year to which corresponds the special tax stamp in force).
- With regard to rates applicable to cigarettes manufactured in the Autonomous Regions of Azores and Madeira under the small producers scheme (*i.e.*, whose annual production does not exceed 500t.) to be consumed in the Autonomous Region of Madeira, the minimum applicable tax was increased from 80% to 90% of the minimum Excise Duty on Tobacco applicable in Mainland Portugal.
- The tax charged on heated tobacco results from the application of a specific element, of EUR 0.075/gr., plus an *ad valorem* element, which corresponds to 20% of the retail price of the product. However, the tax obtained through the application of these two elements cannot be less than EUR 0.135/gr.
- The tax on water pipe tobacco only has the *ad valorem* form, and results of the application of a 50% rate to the retail price.
- The tax charged on the nicotine-containing liquid, in containers used for the fill and refill of electronic cigarettes only has the specific form, and results of the application of a EUR 0.60 duty per ml.

ISV

The exemptions provided for the ISV legislation were extended, also including the vehicles acquired by the Nature and Forest Conservation Institute for the operational functions of the forest fire-fighters teams.

IUC

With regard to the objective incidence of the tax, it is clarified that the *IUC* is charged on category A and B vehicles, save for goods vehicles with gross tonnage of 12 tons or more, which, while not subject to registration in Portugal, remain in the Portuguese territory for periods of more than 183 consecutive or non-consecutive days, per calendar year.

With regard to the timeframes for the assessment and payment of the tax in those situations, it is provided that the tax must be assessed within 30 days from the end of the said 183-day period which constitutes the fact from which the tax arises.

With regard to the subjective incidence of the tax, it is confirmed that the undivided estate, represented by the representative of the beneficiaries, is treated as the taxable person – owner of the vehicle.

As regards the exemptions provided for, it is added that the following are exempted from *IUC*:

- a) Vehicles seized in the scope of criminal proceedings, while the seizure lasts;
- b) Vehicles considered to have been abandoned pursuant to *Código da Estrada*, as soon as they are acquired by occupation by the State or Municipalities;
- c) Vehicles declared forfeited to the State;
- d) The vehicles used by the forest fire-fighters teams that are part of the National Defence System Against Forest Fires; and
- e) Vehicles that, while remaining in the national territory for more than 183 days, are registered in a normal series of another Member State and benefit from the temporary admission scheme on account of the owners being in Portugal to carry out an official task of limited duration, internship, or for study, maintaining their residence and personal links in another Member State.

Provision is also made for the incidence of an additional amount of *IUC* on diesel vehicles, which implies the application of additional rates for light passenger vehicles and mixed use light vehicles with a maximum gross weight not exceeding 2,500 kg, registered since 1981 until 1 July 2007, as well as passenger vehicles with no more than 9 places, including the driver, irrespective of having a gross weight of less or more than 3,500 kg.

Finally, a new article has been added referring to the situations in which the alteration of the ownership of property rights over the vehicle is made according to the special procedure for the registration of vehicles purchased under a verbal agreement, approved by Decree-Law no. 177/2014, of 15 December. According to this new article, the alteration of the ownership of property rights is relevant for *IUC* purposes from the date of the property transmission, in so far as the request for the alteration of the ownership is filled by the seller within one year after the end of the deadline to comply with the mandatory registration.

VII TAX BENEFITS

Cultural Patronage

In the scope of tax benefits relating to patronage, the Cultural Patronage has been made autonomous and is now governed by a specific scheme, as it is already the case with

Scientific Patronage. This new regime is set forth in the now added Article 62-B of the Tax Benefits Act.

Beneficiary Entities

The beneficiaries of donations eligible for this scheme may be any of the following:

- a) Persons referred to in article 62 paragraph (1) of the Tax Benefits Act and public law bodies;
- b) Other non-profit entities that undertake actions related to theatre, opera, ballet, music, organisation of festivals and other artistic performances and of cinematographic, audiovisual and literary production;
- c) Cultural cooperatives, institutes, foundations and associations pursuing activities with cultural nature or interest, notably preservation of the material and immaterial historic and cultural patrimony;
- d) Entities owning or exploiting museums, libraries and historic and documental archives;
- e) Cultural centres organized pursuant to the rules of INATEL, except for donations covered by article 62 paragraph (3) subparagraph c) of the Tax Benefits Act;
- f) Public institutions of artistic production responsible for promoting projects of relevant public service in the areas of theatre, music opera and ballet.

Promoters and Deductions

Public or private natural and legal persons, which make donations to beneficiary entities, are eligible for the scheme as promoters and may, as such, benefit from the following deductions:

- a) Donations to beneficiary entities belonging: (i) to the State, Autonomous Regions and Municipalities or to any of their departments, establishments and bodies, albeit personalised; (ii) to Associations of Municipalities or Parishes, or, (iii) to foundations in the start-up capital of which, the State, the Autonomous Regions or the Municipalities hold an interest, are considered year's costs or losses, in an amount corresponding to 130% of the respective value, for the purposes of *IRC* or Category B for *IRS* purposes.
- b) Donations to beneficiary entities of a private nature are considered year's costs or losses, up to the limit of 8/1000 of the sales volume or services supplied, in a value corresponding to 130% for the purposes of *IRC* or Category B for *IRS* purposes.

The donations referred to in a) and b) are regarded as costs for 140% of their value, where the same are granted under multiannual contracts establishing targets to be achieved by the beneficiary entities and the amounts to be granted by the taxable persons.

Donations in kind and human resources patronage

In the case of donations in kind, reference is made to the general rule provided for in Article 62(11) of the Tax Benefits Act, and therefore the value to be taken into consideration in calculating the deduction from the taxable profit, is the tax value of the goods in the year of donation, less, if applicable, any depreciation or provisions actually effected and accepted as tax cost in accordance with the applicable legislation.

With regard to the so-called human resources patronage, provision is made for a rule similar to the one set out for Scientific Patronage, and therefore it is considered, that the value of the hiring-out of a specialised technician is the value corresponding to costs borne by the employer with his or her pay, including payments made to mandatory social security schemes, during the hiring-out period.

Tax incentives to financing

Stamp Duty on guarantees exemption

Guarantees for the benefit of the Portuguese State and/or for the benefit of Social Security institutions in the context of tax proceedings during 2015 remains exempt from Stamp Duty.

External lending

Interest paid out of *Schuldscheindarlehen* loans entered into by IGCP, E.P.E., in the name and on behalf of the Portuguese State remain exempt from income taxes provided that the relevant creditor is a non-resident entity without a Portuguese permanent establishment to which the income is allocated to.

Debt securities issued by non residents

Interest paid out of public and/or non public debt issued by non-resident which is considered to be obtained in Portugal is exempt from income taxes where such income is paid by the Portuguese State in its capacity as guarantor of obligations undertaken by companies of which it is a shareholder together with other Member States of the European Union.

This exemption is exclusively applicable to effective beneficiaries of the income that fulfil the requirements set out in article 5 of Decree-Law No. 193/2005, of 7 November, as amended by Decree-Law No. 25/2006, of 8 February, Decree-Law No. 29-A/2011, of 1 March and by Law No. 83/2013, of 9 December.

Repo transactions with non resident financial institutions

Gains derived by non-resident financial institutions out of repo transactions on securities with resident credit institutions remain exempt from corporate income tax, provided that those gains are not attributable to a permanent establishment located in Portugal.

Repo transactions

Repo transactions on securities or similar rights carried out in the stock exchange, as well as repo transactions and purchase and sale agreements by way of guarantee entered into between financial institutions, in particular credit institutions and financial companies, with the intervention of central counterparties, remain exempt from Stamp Duty.

Companies in difficult economic situation

Reinforcement of the incentives for the acquisition of companies in a difficult economic situation is maintained, through the extension of the tax losses deduction regime established by Decree-Law No. 14/98, of 28 January to the processes approved by *Instituto de Apoio às Pequenas e Médias Empresas* (Institute of Support to Small and Medium-sized companies) and to the Investment within the scope of the *Sistema de Incentivos à Revitalização e Modernização do Tecido Empresarial* (System for Business Restructuring and Modernisation - SIRME).

Madeira Free Trade Zone

The Government is expected to promote the relevant amendments to the scheme laid down in the Tax Benefit Act, depending on the results of the procedures at the European Commission for the implementation of the IV Scheme of the Madeira Free Trade Zone, aiming at guaranteeing continuity and stability for the entities operating under a licence in that Zone.

VIII TAX JUSTICE

General Tax Law (“LGT”)

Banking and financial secrecy

The existing ancillary reporting obligation of banks and financial institutions to report to the tax authorities any financial transfers made to listed tax havens is extended to include all other entities providing payment services. On the other hand, the information to be reported is broadened to encompass transfers effected through branches abroad or through non-resident entities which are related parties for transfer pricing purposes with the reporting entity, whenever the latter had or should have had knowledge that the relevant transfer was ultimately destined to a listed tax haven.

The Tax Authorities are entitled to directly access the banking and financial information of taxpayers, their relatives and of entities with which they are related parties for transfer pricing purposes, regardless of consent to that effect, when such information is requested under international conventions or agreements binding to the Portuguese State. Moreover, in such cases, it is foreseen that no notification to the taxpayer concerned will be made of the existence of the information request and corresponding reply when:

- The request from the foreign Tax Authorities is urgent in nature; or
- The foreign Tax Authorities expressly request that such notification is not made on the grounds that knowledge by the taxpayers concern may jeopardize ongoing investigations in the requesting State or jurisdiction.

Fight against tax fraud and evasion

The annual submission by the Government to the Parliament of a detailed report on the progress of the fight against tax fraud and evasion in all areas of taxation becomes mandatory; such report should inform on the results achieved, in particular with regard to the value of additional tax assessments made, as well as with regard to the value of amounts recovered of the various taxes.

Public authority powers

It is clarified that, for purposes of the Criminal Code, while in the exercise of their duties, Tax Authorities' officials are considered to be vested with public authority.

Tax Procedural Code ("CPPT")

Judicial mandate

The value of judicial claims up to which the appointment of a lawyer is not mandatory in tax courts of 1st instance is reduced from EUR 12,500.00 to EUR 10,000.00; this reduction only applies to proceedings brought from the date of entry into force of this amendment.

Tax foreclosure proceedings and collection

The formal requirements associated to service of process in connection with tax foreclosure proceedings are reduced, as follows:

- The amount of debt under collection up to which service of process is made by simple postal service is increased from EUR 1,020.00 to EUR 5,100.00;
- The amount of debt under collection up to which service of process is made by registered mail is increased from EUR 25,500.00 to EUR 51,000.00;
- Public notices of service of process may now be published on the Tax Authorities' website ("portal das finanças"), instead of being published in two consecutive issues

of one of the most widely-read newspapers in the place of residence or of registered office of the party being served.

The waive of the obligation to provide security in the context of payment by instalments of tax debts becomes the rule where, at the time of the application, only tax debts of less than EUR 2,500.00 (for natural persons) or EUR 5,000.00 (for legal persons) are outstanding, this being a waive that, until now, only existed regarding income tax debts. On the other hand, it is foreseen that, in these cases, non-payment of even one instalment causes the entire outstanding debt to become immediately due and payable, differing from the general scheme under which only non-payment of three consecutive or six non-consecutive instalments causes the debt to become immediately due and payable, should the debtor fail to pay the outstanding instalments within 30 days from the relevant notification.

Regarding the legal framework of seizures within tax foreclosure proceedings, provision is made for the possibility of the tax authorities having access to information concerning the existence of assets or rights of the debtor available for seizure, whether such information is in its records, in the accounts of the companies or in the hands of third parties. On the other hand, provision is made for a special procedure for the seizure of movable property that forms part of VAT taxpayers' assets, which seizure can take place by simple notification to the debtor stating the assets seized and the person appointed as responsible for its preservation, who must, within 5 days, inform the tax administration of the possible inexistence of any or all of the assets under seizure. Where the seizure relates to fungible assets, the debtor will be entitled to maintain the seized assets at its disposal, provided that assurance is made that they will be presented to the tax authorities within 5 days from the relevant notice.

With regard to partial payments made in pending tax foreclosure proceedings (and irrespective of the advancement of the same), the corresponding minimum value is reduced from EUR 306.00 to EUR 102.00.

On the matter of judicial claims against decisions by the tax foreclosure body, or by other entities of the tax authorities that affect the lawful rights or interests of the debtor or of third parties, the staying effect of the decision against which the claim is filed, established for when the claim is to be immediately referred to a higher instance on grounds of the irreparable damage caused by such decision, is apparently eliminated.

Judicial reviews

The value of judicial claims up to which no appeal against the decisions of tax courts of first instance is possible (with the exception of decisions sustaining, with regard to the same legal grounds and in case of substantial absence of legal regulation, a solution contrary to three other decisions of the same or of a same level court or to a decision of a court of higher level) is increased from EUR 1,250.00 to EUR 5,000.00. This constraint of the appeal possibilities regarding decisions of tax courts of 1st instance only applies to proceedings lodged from its date of entry into force onwards.

General Regulatory Framework of Tax Infringements ("RGIT")

Customs Crimes

In the cases of smuggling, illegal transport of goods within the customs territory of the European Union, fraud in the transport of goods under suspension of duties and fraudulent release for consumption, the value of the excise duties outstanding or the value of the goods which the offence refers to are no longer relevant for the purposes of the qualification of such actions as criminal where the behaviour associated with it is underpinned by the intent to circumvent those amounts and is carried out in an organised manner or takes on an international scope.

Absence or delay in the presentation of documents or in the filing of statements and communications.

It is established that that both the absence or delay in communicating, by the dominant company of a corporate group subject to the corresponding special taxation regime, to the Tax Authorities, any change to the group composition or that the legal requirements for the regime to apply have ceased to exist, are punishable by a fine ranging from EUR 500.00 to EUR 22,500.00.

It is foreseen provided that both the absence or delay in communicating to the Tax Authorities the particular of the invoices issued in accordance with the VAT Code, and the non-compliance with the annual inventory reporting obligation, amount to serious misdemeanours, punishable by a fine ranging from EUR 200.00 to EUR 10,000.00.

Failure to organise accounts in accordance with the accounting standards rules and delays in the accounting registry

The minimum and maximum value of the fines applicable in situations (not punishable as crime or as serious misdemeanour) of failure to organise accounts in accordance with the accounting standards rules, and of registry delays in the accounts, book keeping or in the preparation of other accounting elements or records, for a period longer than the one admitted by law, is increased respectively from EUR 75.00 to EUR 200.00 and from EUR 2,750.00 to EUR 10,000.00. It is also established that such offences amount to serious misdemeanours.

IX OTHER AMENDMENTS

Contribution on the Banking Sector

The application of the extraordinary contribution on the banking sector is extended and the maximum rate applicable to the liabilities deducted from the original own funds (*Tier 1*) and ancillary own funds (*Tier 2*) and of the deposits covered by the Deposit Guarantee Fund is increased from 0.07% to 0.085%.

Energy Sector Extraordinary Contribution

The application of the extraordinary contribution on the energy sector is extended, being updated the references to the year 2014 contained in the respective regulations and the provisions relating to the Fund for Systemic Sustainability of the Energy Sector ("FSSSE"), which has already been created by Decree-Law No. 55/2014 of 9 April.

The exemptions of this contribution are amended, in particular with regard to the production of electricity from renewable resources, which only considers the small production units.

Extraordinary solidarity contribution ("CES") – Pensions income

Provision is made for the maintenance of the extraordinary monthly contribution on all life-long cash benefits (payments due to pensioners, retirees, pre-retired or similar), with the following changes:

- Only life-long cash benefits with a monthly value of more than EUR 4,611.42 (currently EUR 1,000.00) will be subject to this contribution;
- Its rate is set at 15% of the amount exceeding EUR 4,611.42 and not exceeding EUR 7,126.74 and at 40% of the amount exceeding EUR 7,126.74;
- Provision is made for the reduction of these rates by 50% in 2016 and their elimination in 2017.

Electronic reporting of inventories

Natural and legal persons with registered office, permanent establishment or tax address in the Portuguese territory that keep organised accounts and are obliged to prepare an inventory, with a year turnover of more than EUR 100,000, are now obliged to report to the Tax Authorities, by electronic data transmission, on a file with the characteristics to be defined by Government ordinance, the inventory as at the last day of the previous year.

This communication must be made until the end of the month following the end date of that period.

Reporting of financial information within international cooperation

The 2015 SB introduces a regime on reporting of financial information, which sets forth a number of obligations applicable to financial institutions regarding the identification of certain accounts and reporting of information to the Portuguese Tax Authorities.

This regime aims at ensuring and enhancing the conditions required for the application of the mechanisms for international cooperation and fight of fiscal evasion foreseen in the Convention between the Portuguese Republic and The United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on

Income, and in the “*Foreign Account Tax Compliance Act*” (“FATCA”), by means of mutual assistance based on automatic and reciprocal exchange of informations.

Legislative authorisations

The Government is authorised to:

- Legislate on the taxation of financial transactions that take place on the secondary market (“*Taxa Tobin*”), consequently renewing the authorisation granted for 2014;
- Lay down a system of penalties in connection with the Community Regime for the Control of Exports, Transfer, Brokering and Transit of Dual Use Items consequently renewing the authorisation granted for 2014;
- Approve a regime instituting and regulating the concept of Real Estate Investment Companies (*Sociedades de Investimento em Património Imobiliário (SIPI)*), public limited liability companies issuers of shares admitted to trading, the main object of which is the investment in real estate assets for lease.

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