



NEWSLETTER | TAX

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NEWSLETTER TAX LAW

I NATIONAL LEGISLATION

Parliament

Parliamentary Resolution no. 58/2017, of 27 January, published on April 2017

Approves the Protocol that amends the Convention between Portugal and France for the avoidance of double taxation and the establishment of rules for mutual administrative assistance in tax matters.

Presidency of the Republic

Presidential Decree no. 31/2017, of 3 April

Ratifies the Protocol that amends the Convention between Portugal and France for the avoidance of double taxation and the establishment of rules for mutual administrative assistance in tax matters.

Legislative Regional Assembly of the Azores

Regional Legislative Decree no. 3/2017/A, of 13 April

Approves the Budget of the Autonomous Region of the Azores for the year of 2017 and creates the Participatory Budget of the Autonomous Region of the Azores.

Legislative Regional Assembly of Madeira

Regional Legislative Decree no. 11/2017/M, of 13 April

Approves the value of the minimum monthly wage (*retribuição mínima mensal garantida*) for the Autonomous Region of Madeira.

Presidency of the Council of Ministers

Declaration of Rectification no. 12/2017, of 7 April

Rectifies Decree-Law no. 19/2017, of 14 February, which establishes an electronic system for communication of data on travellers and their acquisitions for the purposes of benefiting from a Value Added Tax ("VAT") exemption on purchases made in Portugal, due to an inaccuracy in its contents.

Presidency of the Council of Ministers

Declaration of Rectification no. 13/2017, of 7 April

Rectifies Decree-Law no. 22/2017, of 22 February, which created the Tax Incentive for Cinematographic Production, due to inaccuracies in its contents.



Presidency of the Council of Ministers

Declaration of Rectification no. 14/2017, of 24 April

Rectifies the Resolution of the Council of Ministers no. 39/2017, of 10 March, which creates the National Focal Point of the European Economic Area Financial Mechanism 2014-2021, due to inaccuracies in its contents.

Ministry of Finance

Decision no. 2974/2017, of 17 March, published on April 2017

Creates the Working Group for the Definition of the New Model of Evaluation of Rural Property.

Ministry of Foreign Affairs

Notice no. 32/2017, of 17 April

Announces that the Republic of Nauru deposited the instrument of ratification of the Convention on Mutual Administrative Assistance in Tax Matters with the General Secretary of the Organisation for Economic Cooperation and Development ("OECD").

Ministry of Foreign Affairs

Notice no. 33/2017, of 17 April

Announces that the People's Republic of China deposited the instrument of ratification of the Convention on Mutual Administrative Assistance in Tax Matters with the General Secretary of the OECD.

Ministry of Foreign Affairs

Notice no. 34/2017, of 17 April

Announces that Santa Lucia deposited the instrument of ratification of the Convention on Mutual Administrative Assistance in Tax Matters with the General Secretary of the OECD.

Ministry of Foreign Affairs

Notice no. 35/2017, of 18 April

Announces that the Republic of Chile deposited the instrument of ratification of the Convention on Mutual Administrative Assistance in Tax Matters with the General Secretary of the OECD.



Ministry of Foreign Affairs

Notice no. 36/2017, of 18 April

Announces that the Republic of Bulgaria deposited the instrument of ratification of the Convention on Mutual Administrative Assistance in Tax Matters with the General Secretary of the OECD.

Ministry of Foreign Affairs

Notice no. 37/2017, of 21 April

Announces that the Republic of Seychelles deposited the instrument of ratification of the Convention on Mutual Administrative Assistance in Tax Matters with the General Secretary of the OECD.

Ministry of Foreign Affairs

Notice no. 38/2017, of 21 April

Announces that the Republic of Indonesia deposited the instrument of ratification of the Convention on Mutual Administrative Assistance in Tax Matters with the General Secretary of the OECD.

Ministry of Foreign Affairs

Notice no. 39/2017, of 18 April

Announces that Barbados deposited the instrument of ratification of the Convention on Mutual Administrative Assistance in Tax Matters with the General Secretary of the OECD.

Ministry of Finance and Ministry of Culture

Ordinance no. 89-A/2017, of 19 April

Approves the Regulation of the Tax Incentive for Cinematographic Production set forth in Article 59-F of the Tax Benefits Statute.

II ADMINISTRATIVE INSTRUCTIONS

Tax and Customs Authority

Department of Customs Regulation Services – Movement of Goods Division

Circular no. 15583/2017, of 18 April

Announces that the customs authorities of Turkey informed the customs authorities of the countries that are contracting parties to the Convention on the International Transport of Goods ("TIR Convention") that, from 25 April 2017 onwards, in order to facilitate customs procedures and to ensure a more efficient risk analysis, it will be mandatory to submit an



electronic declaration before the arrival of the means of transport at the customs territory of Turkey, in order to secure the circulation of goods under the TIR Convention.

This Circular further announces that the above-mentioned electronic declaration can be submitted through TIR-EPD or the Pre-Declaration System (TIRCUS), recently made available by the Turkish Ministry of Customs and Trade.

*Tax and Customs Authority
Corporate Income Tax Services – Assessment Division
Circular no. 20195, of 19 April*

Discloses the list of Municipalities, with the respective Municipal codes and Municipal Surtax rates to be charged in 2017, necessary for completion of the Corporate Income Tax (“CIT”) Return Form 22, and clarifies doubts that may arise within its application.

III NATIONAL CASE LAW

*Supreme Administrative Court
Judgment of 22 February, published in April 2017
Case no. 1658/15*

In the decision in question, rendered in the context of an appeal, the Supreme Administrative Court clarifies that the Property Tax exemption set forth in Article 44.1 paragraph (e) of the Tax Benefit Statute shall only apply to real estate that is directly connected to the statutory purpose of legal persons of public utility (*i.e.*, the ones necessary for its headquarters, delegations and for installation of essential services for the fulfilment of the statutory purposes), not being this exemption dependent on previous recognition, under the Article 44.4 of the Tax Benefit Statute.

Further clarifies that the Property Tax exemption set forth in Article 1(d) of Law no. 151/99, of 14 September, is still in force, applying only to urban property, owned by legal persons of public utility and intended for the achievement of its statutory purpose. This exemption is dependent on previous recognition.

*Supreme Administrative Court
Judgment of 29 March 2017
Case no. 01372/16*

In the decision in question, the Supreme Administrative Court considers that, being the adverse possession (*usucapião*) deemed by the legislator as a free transfer of real estate for Stamp Duty purposes, it is the public deed of acquisition by adverse possession that constitutes the taxable event, being the obligation to pay the Stamp Duty triggered on the public deed date, pursuant to Article 5(r) of the Stamp Duty Code.



The Supreme Administrative Court further stated that, having the beneficiary of the adverse possession relied on his possession of the property and also on the possession of a person of whom he is the legal successor of, the public deed of acquisition of the ownership right over that property by adverse possession is the legal title of the acquisition of the said right entitling the beneficiary with the same.

*Supreme Administrative Court
Judgment of 29 March 2017
Case no. 01521/15*

In the decision in question, the Supreme Administrative Court considers that the exemption from Property Transfer Tax ("PTT") set forth in Article 270.2 of the Insolvency and Corporate Recovery Code applies not only to sales or exchanges of companies and transfers of a business as a going concern, but also to sales and exchanges of isolated properties forming part of the assets of an insolvent company, provided that such sale or exchange is made within an insolvency or payment plan or is carried out in the course of the liquidation of the insolvent estate.

*South Central Administrative Court
Judgment of 6 April 2017
Case no. 572/11.4BELLE*

In this decision in question, the Court considered that the benefit set forth in Article 9.6 of the Property Tax Code does not apply to taxpayers who have purchased a real estate asset from an entity that has already benefited from that exemption, pursuant to the Article 9.1(d) and (e), of the Property Tax Code.

IV OTHER MATTERS

Portugal and Hong Kong sign a tax information exchange agreement

The State Secretary for Tax Affairs, Fernando Rocha Andrade, signed a tax information exchange agreement with the Secretary for Financial Services and the Treasury of Hong Kong, which will enable the Portuguese tax authorities to access bank accounts held by Portuguese taxpayers in Hong Kong.

OECD releases further guidance for tax administrations and multinational groups in compliance with BEPS Action 13.

The additional guidance released by the OECD clarifies some interpretative issues on the data to be included in the financial and tax reports of multinational groups under the Country-by-Country reporting, as well as on the application of the model legislation



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contained in the BEPS Action 13 report, to assist jurisdictions with the introduction of consistent domestic rules.

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