

More Housing Program

Main changes affecting investors

Law 56/2023 of October 6

Law 50/2023 of August 28

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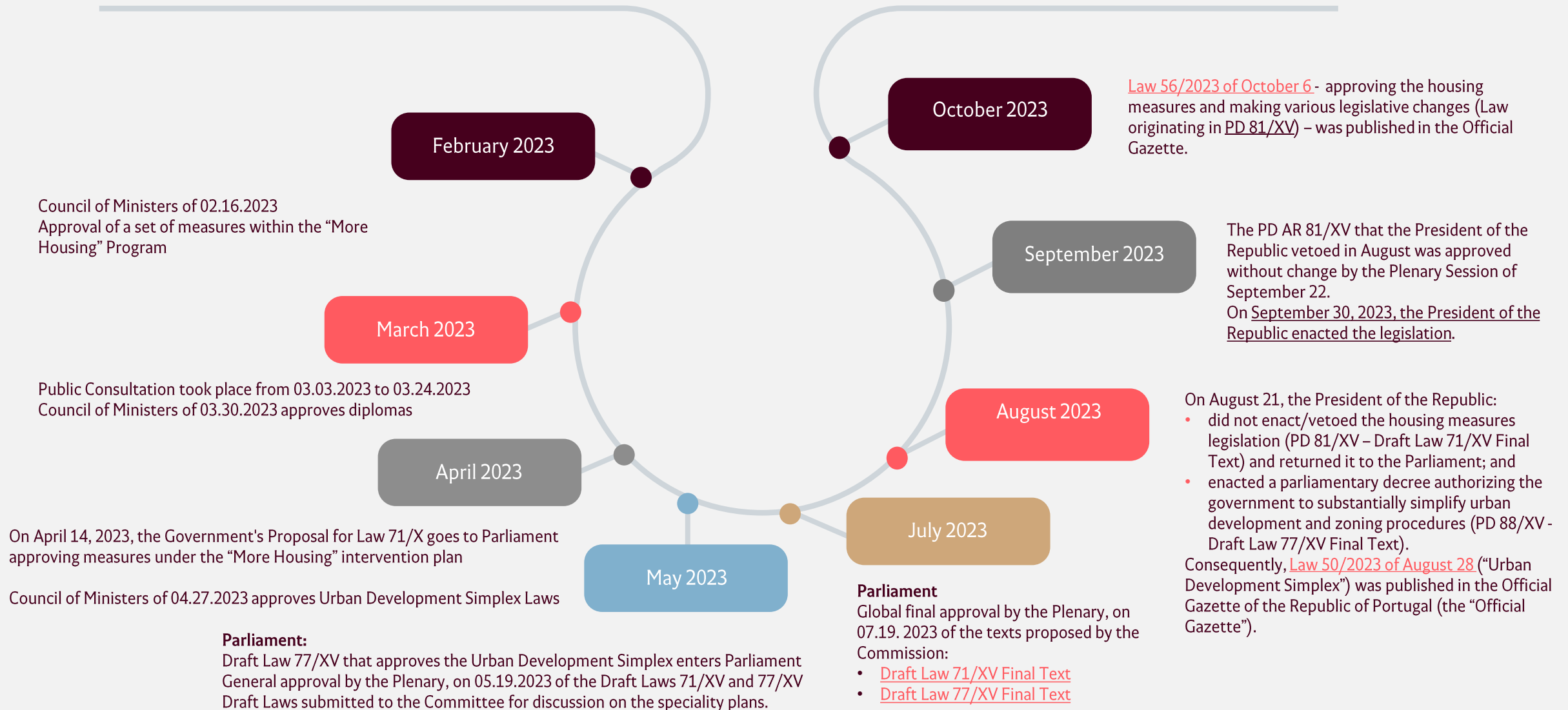
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1. Timeline



2. Rental [SEE LAW 56/2023 OF OCTOBER 6]

2.1. New Residential Rental Agreements - Initial Rent Restriction

By reference to real estate for which lease contracts have been in force entered into by the parties in the five years prior to the date of entry into force of the law - **the initial rent of new contracts is limited:**

- The coefficient of 1.02 is applied to the value of the last rent practiced on the same property in a previous contract, - that is, the initial rent of the new contracts cannot exceed **2% in relation to the previous rent**
- This 2% limitation applies to contracts that exceed the amounts within the general rent price limits by type provided for in the Rental Support Program ("RSP").

Specific cases with an **increase beyond 2%:**

- i. If the immediately preceding lease agreement has not been subject to one or more legally admitted updates, the **update resulting from the update coefficients of the three previous years may be added** - considering, by reference to 2023, the coefficient of 5.43%
- ii. If the property is subject to **extensive remodeling or restoration work** (duly attested by the City Council) – the initial rent may be increased by the amount relating to expenses incurred by the landlord, up to an **annual limit of 15%**.

The foreseen coefficients can only be applied once in each calendar year.

2.2. Pre-1990 Rental Contracts No Transition to NRAU (New Urban Rental Regime - NRRL)

Contracts prior to 1990 that have not yet been transferred to the NRAU – **Landlords no longer have the possibility of triggering the transition to NRAU.**

Compensation Measures:

- The definition of fiscal measures, including exemption from IRS and IMI, as well as the definition of the amounts and limits of the compensation to be attributed to the landlord and the rent to be defined for the tenant to be applied from 2024.

Impact?

Landlords subject to the negotiation of the value of rents by reference to new rental contracts.
Restriction enters into force on the day after publication of the law in the Official Gazette.

Duration: Regime will take effect until 12.31.2029

Impact?

Inability of the Landlord to terminate the contract;
Freezing of rents.

Duration: The non-transition to the NRAU becomes definitive. Restriction enters into force on the day after publication of the law in the Official Gazette. Compensation measures will only apply as of 2024.

2. Rental [SEE LAW 56/2023 OF OCTOBER 6]

2.3. Forced Rental

- Properties that can be subject to forced rental:

- Residential units for housing purposes
- Separate parts of a building that can be used for residential purposes

- Procedure:

Located **outside the interior of the country** (see Schedule to Ordinance 208/2017) **and the Autonomous Regions**

Classified as **vacant for more than two years** (see Decree-Law 159/2006)

Option A

The competent Municipality sends the Owner

Notice regarding the upkeep duty

Municipality can carry out the work if the owner does not comply

or

Notice regarding the duty to use the unit
+
A Rental Proposal (optional)

Option B

If:

- the municipality does not intend to rent out the property; and
- the property needs no construction work

Municipality sends information to IHRU

Rental proposal from IHRU (optional)

Property will be subject to forced rental if:

- the owner rejects the proposal or fails to respond within 90 days; and
- the property remains vacant

Evidence of vacancy (See Decree-Law 159/2006):

- No contracts with telecommunications and utility companies
- No telecommunications or utility bills
- Low water and electricity consumption – bills in each year do not exceed a consumption level of more than 7 m³ for water and 35 kWh for electricity
- Vacant property, as attested by an inspection carried out under article 90 of Decree-Law 555/99 of December 16, as amended.

New communication duty established in the Draft Law:

Telecommunications and utility companies must send the municipalities an **updated list of properties with no supply agreements or where consumption is low or non-existent for each building or unit by October 1 each year.**

Impact?

Risk of forced rental of properties vacant for more than two years

Rent: The rent cannot exceed 30% of the general rent price limits per type depending on the municipality where the property is located (see article 10.1.a) of Decree-Law 68/2019)

2. Rental [SEE LAW 56/2023 OF OCTOBER 6]

2.4. Promotion of Accessible Rent

- Financing Line Available
- Transfer of land and public buildings

Beneficiaries:

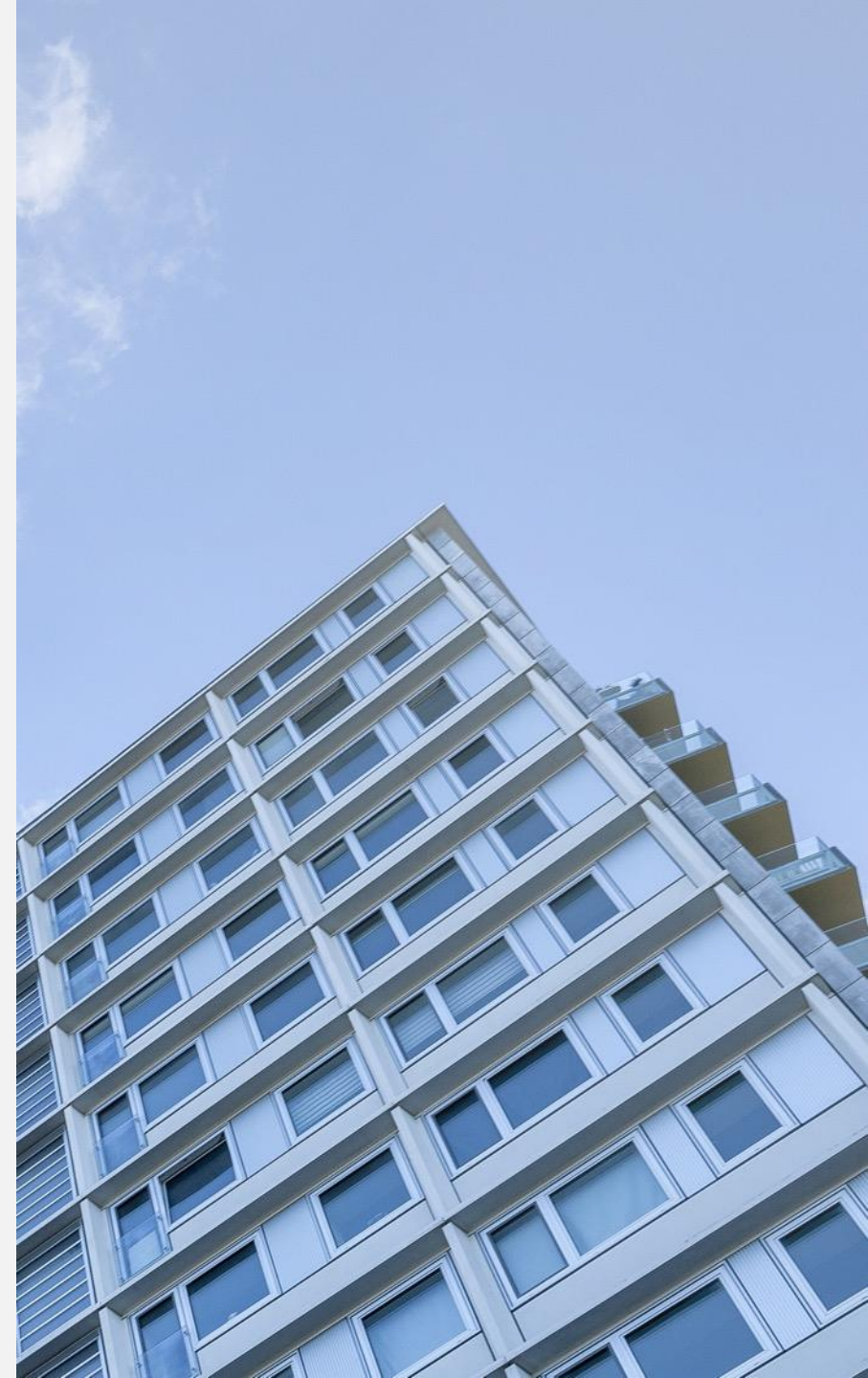
Access to this support, among other cases provided for by law, may be accessed by commercial companies engaged in civil construction, in a consortium or in another form of association with commercial companies whose corporate purpose includes renting for housing and property management, which comply with the access conditions provided for in article 4 of Decree-Law no. 165/93, of May 7, in its current wording, or companies in whose capital they hold, as well as **entities dedicated to promotion and investment real estate**

Regulation of support pending an Ordinance to be published within 90 days.

Student Accommodation

The support provided for the promotion of affordable renting will apply, with the necessary adaptations, to student accommodation.

However, adherence to this regime is subject to the application of maximum values of monthly accommodation prices for students, defined in an ordinance by the government members responsible for higher education and housing.



2. Rental [SEE LAW 56/2023 OF OCTOBER 6]

2.5. Rent Support Program - Tax Incentives

Forced purchases of land intended for the construction of residential buildings. **Exemption from IMT, if cumulatively:**

- At least 700/1000 of the buildings on horizontal property, or
- the entire property in case of total ownership or separate parts,

is assigned to the Rental Support Program (or equivalent regional programs), regardless of the promoter, provided they are certified by the IHRU or by the competent authorities of the autonomous regions



The prior control procedure for construction works of properties with housing allocation is initiated with the competent authority within 2 years after the acquisition

Urban buildings or autonomous fractions acquired, rehabilitated or built for allocation to the Rental Support Program (or equivalent regional programs)

- **IMT exemption** and
- **IMI exemption** (period of 3 years from the year of purchase, which can be renewed for another 5 years at the request of the owner)

Housing lease agreements with **Stamp Duty Exemption:**

- housing rental contracts included in the Rental Support Program;
- contracts concluded within the scope of public housing programs promoted by entities with competence in the field of housing in the autonomous regions.



IMI and IMT exemptions without effect if:

- The properties are put to a use other than the one on which the benefit was based within a period of 5 years from the date of transfer or, in the case of renewal of the benefit, within a period of 10 years; or
- The properties are not subject to a contract under the Rental Support Program within a period of 6 months from the transfer date.

2. Rental [SEE LAW 56/2023 OF OCTOBER 6]

2.5. Rent Support Program - Tax Incentives

Real estate investment funds and real estate investment companies that operate in accordance with national legislation, provided that **at least 75% of their assets are real estate allocated to housing rental at affordable costs**, benefit from the following incentives:

Capital gains resulting from the disposal of units in these funds are subject to taxation at a rate of 10% when the holders are non-resident entities or are taxpayers of IRS residing in Portuguese territory who obtain income outside the scope of a commercial, industrial or agricultural activity and do not opt for the respective aggregation.

Tax incentives – **In general:**

Exemption from IRS and IRC, for the duration of the respective contracts, for property income obtained within the scope of municipal programs for housing rental at affordable costs and for student accommodation, this exemption depending on recognition by the Government member responsible for finance.

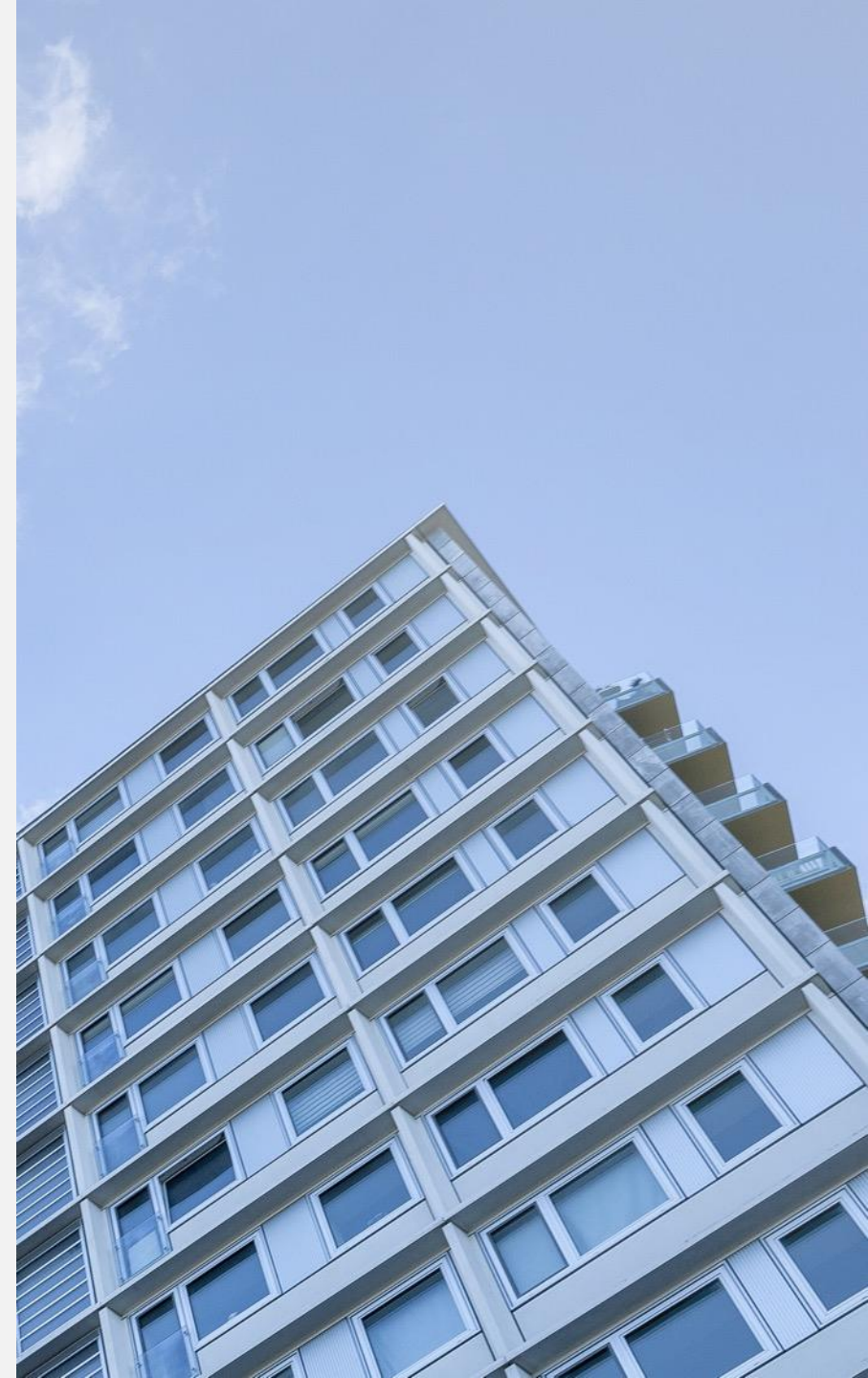
2.6. Rental for Housing Purposes - General Tax Incentives

It is planned to reduce taxation on property income arising from housing rental **to a rate of 25%**

In addition, depending on the duration of rental contracts for permanent housing, an additional reduction in the IRS rates is also foreseen applicable to the resulting property income:

- For contracts with a duration equal to or greater than 5 years and less than 10 years, a reduction of 10 percentage points is applicable, with a reduction of 2 percentage points for each renewal of equal duration, up to a minimum limit of 10 percentage points;
- For contracts with a duration equal to or greater than 10 and less than 20 years, a reduction of 15 percentage points applies;
- For rental contracts with a duration equal to or greater than 20 years, as well as property income arising from real right contracts for sustainable housing, a reduction of 20 percentage points is applied.

Cumulatively with the measures referred to above, an additional reduction of 5 percentage points of the applicable rate is also foreseen whenever the rent is at least five percentage points lower than the previous rental contract on the same property.



2. Rental [SEE LAW 56/2023 OF OCTOBER 6]

2.6. Tenant and Landlord Desk

BEFORE

National Rental Desk
+
Rental Injunction Service

LAW 56/2023

Tenant and Landlord Desk

created to ensure, exclusively throughout the national territory, the processing regarding rental:

- of the special eviction procedure and
- of the injunction

The National Rental Desk and the Rental Injunction Service are abolished

Both procedures are urgent

The respective proceedings are not suspended during court holidays

Impact?

Purpose of simplifying and streamlining processes.

Reinforcement of guarantees in the context of residential rentals: It is now possible, under certain conditions, for the State to pay the landlord rents for housing purposes that expired after the opposition period, with a maximum total limit of 9 times the Guaranteed Minimum Monthly Remuneration .

Taking effect: Effects production:

The changes introduced by this law to the special eviction procedure and its provisions regarding the respective procedure will **take effect 120 after the respective entry into force.**

Change of the following laws:

- New Urban Rental Regime (NRAU), approved by Law No. 6/2006, of February 27
- Decree-Law No. 1/2013, which defines the operating rules for the National Rental Desk and the special eviction procedure, of January 7
- Regime of Injunction Procedure in Rental Matters, approved by Decree-Law No.

The Government will implement, within 60 days, **an integrated system of access to information** regarding the lease, from the point of view of the landlord and the tenant.



3. Short-term letting [SEE LAW 56/2023 OF OCTOBER 6]

3.1. Suspension of New Registrations

- **New short-term letting licenses** will be suspended for apartments and hospitality establishments in separate units. **Exception:** inland Portugal, Madeira and the Azores
- Municipalities can establish the balance between housing supply and student housing in their municipal housing charters, enabling them to terminate the suspension of new licenses. The suspension may cover all or only part of the area of the municipality where housing shortages have been declared.

3.2. Condominium Authorization - New Registrations

- It is now foreseen that whenever the establishment of short-term letting is registered in a separate part of a building under horizontal ownership that is intended, in the deed of creation, for housing, the registration must be preceded by a decision by the condominium for different use. Thus, in the prior communication, it becomes mandatory to present the minutes of the meeting of owners authorizing the installation.
- It is only applicable to registrations made after the entry into force of the Law.

3.3. Reappraising existing licenses

- The existing licenses on the date of entry into force of the draft law will be **subject to reassessment in 2030**. In the case of establishments that constitute a property guarantee for loan agreements entered on or before 02.16.2023, which have not been repaid by December 12.31.2029, the reassessment will only take place after full repayment of the loan
- **Renewal Term:** 5 years

3.4. Non-transferability and expiry

- The **license number of the short-term letting establishment is personal and non-transferable**, even if held or owned by a company or business
- The **license expires if any part of the holder's share capital is transferred**, regardless of the percentage. The only exception is in succession cases.
- Within **2 months of the date the draft law enters into force, the holders of these licenses must provide proof that they are still active**, or the license can be canceled. These obligations of proof regarding the maintenance of the activity under penalty of forfeiture do not apply to the operation of

short-term letting units in permanent housing, provided that this operation does not exceed 120 days/year.

3.5. Opposition to Short-term letting

- In the event that the short-term letting is carried out in a separate part of a building or part of an urban building susceptible of independent use - **the joint owners' assembly may oppose the exercise of that activity** provided that (i) it deliberates by **at least two thirds of the permilage** (half of the permilage is not foreseen as stated in the initial wording of the Draft Law); (ii) the articles of incorporation do not expressly provide for such use nor is there an express resolution of the meeting to authorize such use.
- Cancellation of registration will only take effect within 60 days after sending the decision to the President of the respective City Council.

Impact?

- Impossible to obtain new licenses for apartments and hospitality establishments included in separate part after the draft law comes into force (the day after publication in the Official Gazette)
- Need to obtain a condominium authorization for new registrations - separate part of a building under horizontal ownership that is intended, in the deed of creation, for housing
- Impossible to acquire a license by transfer
- Licenses expire if part of the share capital of the license holder is transferred
- Licenses are subject to review and five-year renewal terms
- Risk of objection by condominium owners

3. Short-term letting [SEE LAW 56/2023 OF OCTOBER 6]

3.6. Extraordinary Contribution

An extraordinary annual contribution is created on apartments and accommodation establishments integrated in a separate part of a building for short-term letting (CEAL)

Who is obliged to pay?

Holders of short-term letting licenses and, subsidiarily, property owners who are not the license holders

Tax base – based on 2 coefficients to be published annually and a rate of 15%:

- Economic coefficient for short-term letting and
- Urban development pressure coefficient for the gross private area of residential properties

Exceptions:

- Properties located in inland Portugal, Madeira, and the Azores.
- Properties located in parishes that:
 - (i) are covered by an existing municipal housing charter that evidences an adequate balance between housing supply and student housing in the municipality;
 - (ii) are in municipalities where a housing shortage has not been declared;
 - (iii) do not have any part of their territory defined as an urban development pressure zone.

Exemptions:

- residential properties that do not constitute separate parts, or parts or divisions susceptible of independent use.
- short-term letting units in own and permanent housing, provided that the operation does not exceed 120 days per year.

Impact?

In non-exempt cases - CEAL must be considered in the short-term letting business plan
CEAL is not deductible for the purposes of determining taxable income under IRC, even when accounted for as an expense for the tax period.

3.7. Tax Incentives and transfer of Local-short-term letting property for rental

- **Exemption from IRS and IRC of property income arising from rental agreements for housing purposes is foreseen**, provided that all of the following conditions are met:

Registration and Allocation of the Establishment until **12.31.2022**

Transfer from short-term letting to permanent housing

Rental agreement registered on the tax office website by **12.31.2024**

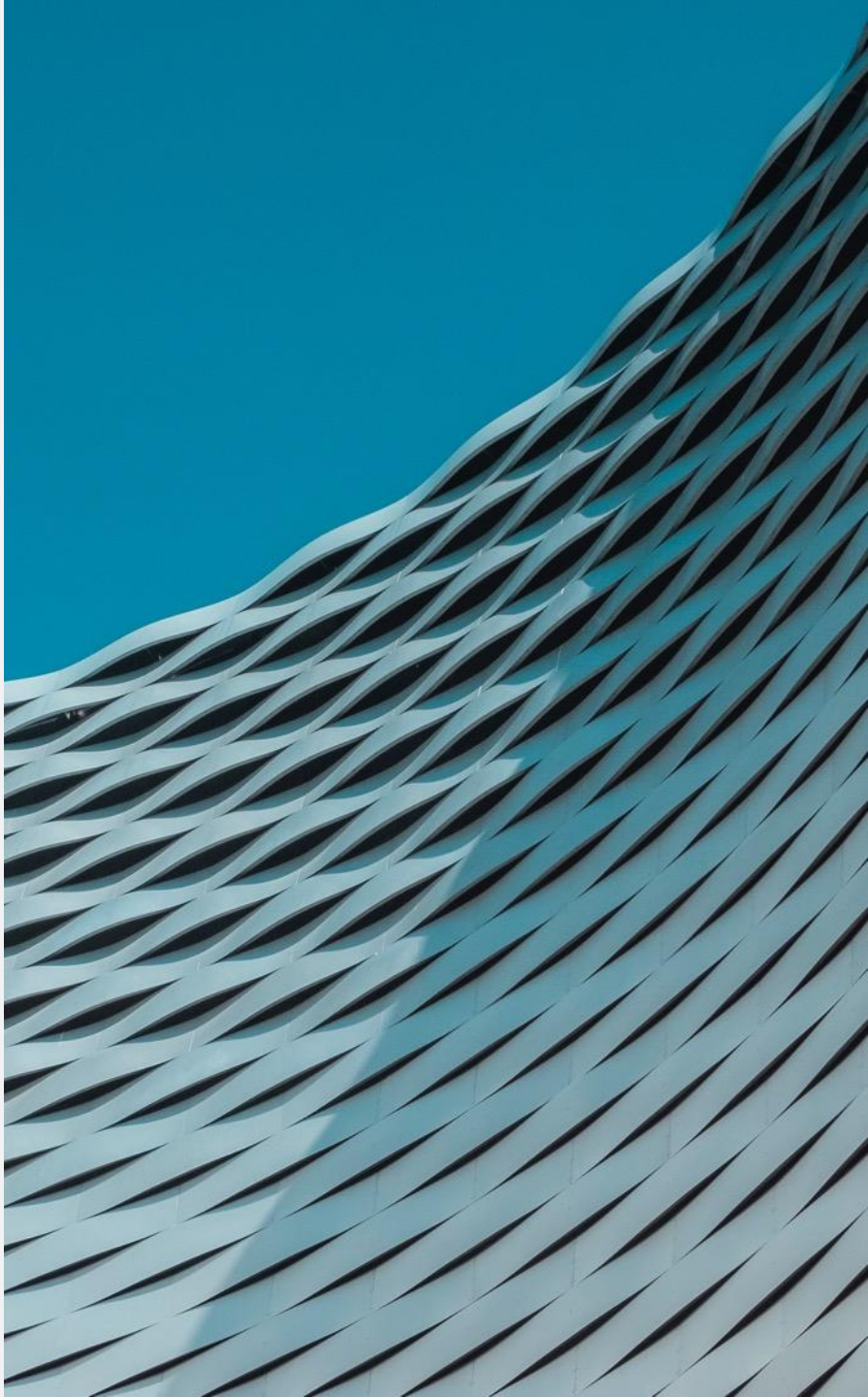
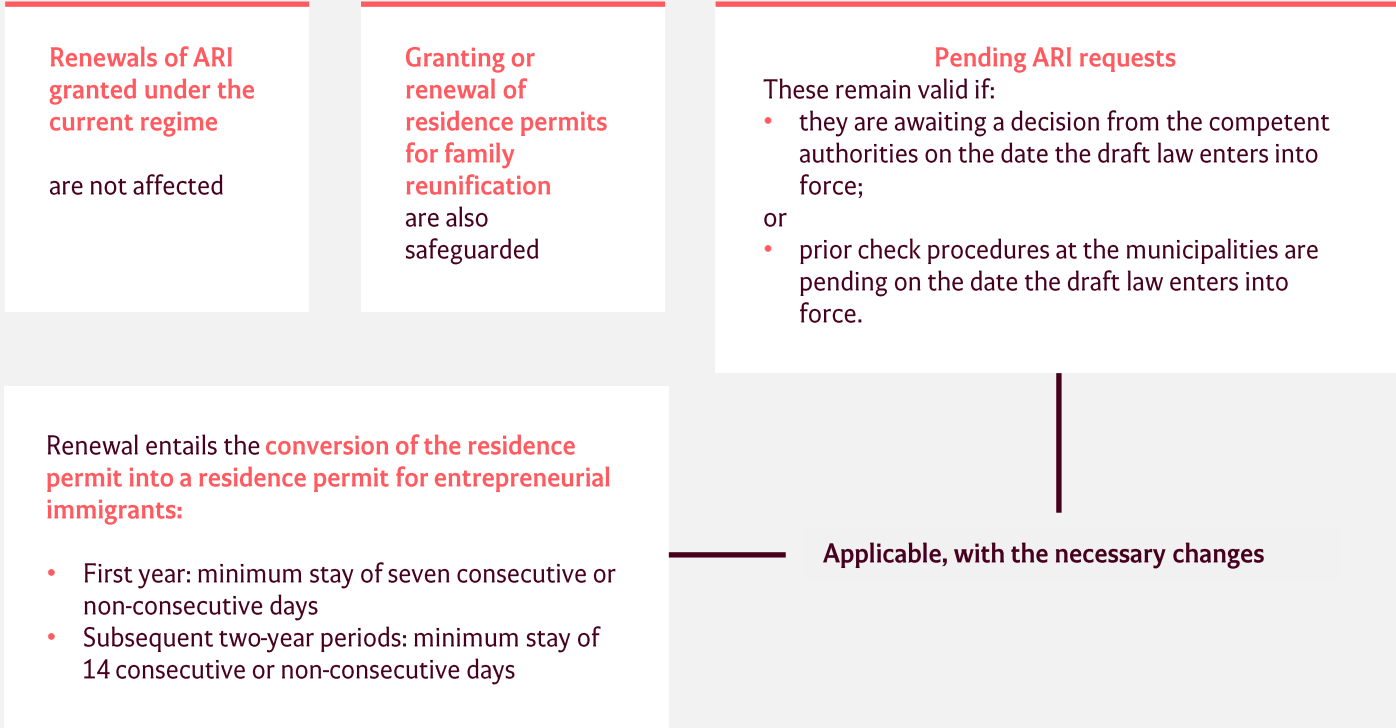
Duration: Exemption applicable to property income obtained up to **12.31.2029**

4. Golden Visas [SEE LAW 56/2023 OF OCTOBER 6]

Requests that are no longer accepted:

From the entry into force of the Law (the day after publication in the Official Gazette), new ARI requests will not be accepted based on the following investments:

- a) Transfer of capital in an amount equal to or greater than 1.5 million Euro;
- b) Acquisition of real estate with a value equal to or greater than 500 thousand Euro.
- c) Acquisition of real estate, the construction of which was completed at least 30 years ago or located in an urban rehabilitation area and carrying out rehabilitation works on the acquired real estate, in a global amount equal to or greater than 350 thousand Euro.



4. Golden Visas [SEE LAW 56/2023 OF OCTOBER 6]

New ARI requests

New ARI grant applications will only be accepted in the following cases:

- Creation of at least 10 jobs - it may be 20% less when the activity is carried out in low-density territories.
- Capital transfer in an amount equal to or greater than €500,000, which is applied in research activities carried out by public or private scientific research institutions, integrated in the national scientific and technological system - it may be 20% lower when the activity is carried out in low density territories;
- Capital transfer in an amount equal to or greater than 250 thousand euros, which is applied in investment or support to artistic production, recovery or maintenance of the national cultural heritage, through central and peripheral direct administration services, public institutes, entities that integrate the sector business public, public foundations, private foundations with public utility status, inter-municipal entities, entities that make up the local business sector, municipal associative entities and public cultural associations, which pursue duties in the area of artistic production, recovery or maintenance of the national cultural heritage - it may be 20% lower when the activity is carried out in low-density territories;
- Capital transfer in an amount equal to or greater than €500,000 for the acquisition of shares in non-real estate collective investment undertakings, which are constituted under Portuguese law, whose maturity, at the time of the investment, is at least five years and at least 60% of the value of investments is made in commercial companies headquartered in the national territory;
- Transfer of capital in an amount equal to or greater than € 500,000, intended for the formation of a commercial company with headquarters in national territory, combined with the creation of 5 permanent jobs, or to reinforce the share capital of a commercial company with headquarters in national territory, already constituted, with the creation of at least 5 permanent jobs or maintenance of at least 10 jobs, with a minimum of 5 permanent jobs, and for a minimum period of 3 years.

Investment activities:

- are subject to evaluation every two years regarding their impacts on scientific and cultural activity and on the promotion of foreign direct investment and job creation
- **cannot be used, directly or indirectly, for real estate investment**

5. Purchase for resale [SEE LAW 56/2023 OF OCTOBER 6]

Limit on the property tax exemption on purchases for resale

- The period for reselling properties purchased for resale decreases from three years to one year.

If a property benefits from an exemption, tax and compensatory interest will be due from the time of purchase if:

- i. a different destination is given to the property acquired for resale - now establishing that the completion of works, building or improvement, or other alterations that may determine a variation in its taxable value, is considered to be a different use.
- ii. the property purchased for resale is not resold within one year;
- iii. the property is resold again for resale.

When the building is resold again—not for resale—within one year, any tax paid can be canceled by the head of the tax office at the request of the interested party who must submit a document evidencing the transaction.

See the article “[Changes to the property transfer tax \(IMT\) exemption on purchases for resale](#)” in the tax newsletter for the 1st quarter of 2023

Impact?

The law does not restrict this reduction in the property tax exemption period to residential properties, so this **change will affect the purchase of any property for resale.**

This change affects future purchases, which now have a shorter period of one year for resale.

Entry into force:

The law does not establish any transitory provisions.



6. IMI Changes [SEE LAW 56/2023 OF OCTOBER 6]

6.1. Exemption from IMI for land for housing construction

Construction land for residential properties for which the procedure for prior control of construction works has been initiated with the competent authority and for which a final decision, express or tacit, has not yet been taken, is exempt from IMI.

Also exempt from IMI are buildings in which the prior control procedure for residential use has been initiated with the competent authority, and for which there has not yet been a final decision, express or tacit, on the procedure.

Start of exemption: The exemptions in question start from the date of communication made to the finance service.

Additional remarks on this exemption:

- If the building has a use other than housing, it will be taxed from the moment of acquisition;
- The exemption provided for herein, if granted, is not transferred to purchasers of the properties in question;
- The exemption also does not apply to taxable persons with tax domicile in a country, territory or region subject to a more favorable tax regime and neither or who are an entity dominated or controlled, directly or indirectly, by an entity that has a tax domicile in a country, territory or region subject to a more favorable tax regime.

6.2 Revocation of the extension of the starting period for IMI taxation

Elimination of the deferral period for the start of IMI taxation in cases where:

- land for construction has been included in the inventory of a company whose object is the construction of buildings for sale; or
- a building has been included in the inventory of a company whose object is its sale



7. Urban Rehabilitation - Tax Changes [SEE LAW 56/2023 OF OCTOBER 6]

7.1. Reduced VAT rate on Urban Rehabilitation works

Item 2.23 of List I annex to the VAT Code

urban rehabilitation works (as defined in a specific diploma) are those carried out **on properties or public spaces** located in urban rehabilitation areas, which benefit from the reduced VAT rate.



New drafting of Item 2.23 of the More Housing Program

contract works for the rehabilitation of buildings, as well as contracts for the construction or rehabilitation of equipment for collective use of a public nature, located in urban rehabilitation areas, or even within the scope of refurbishment and rehabilitation operations of recognized national public interest that may benefit from the reduced VAT rate (except for other situations provided for by law).

On this matter, read the article “Stabilizing reduced VAT on urban rehabilitation” in the [Fiscal Newsletter of the second quarter of 2023](#)

A restriction of the scope of application of the reduced VAT rate is foreseen for urban rehabilitation works carried out in urban rehabilitation areas.

Safeguarded ongoing real estate projects:

A transitional rule is foreseen that safeguards the stability of the VAT rate applicable to the project.

The new Item 2.23 will not apply to:

- urban planning operations for which they have been submitted, to the territorially competent municipal council and before the date of entry into force of the new law, i) application for licensing, ii) prior communication or iii) request for prior information;
- urban operations whose requests for licensing or prior communication have been submitted to the territorially competent municipal council after the entry into force of the new law, provided that they are submitted under favorable prior information in force.

7.2. Revocations of Tax benefits applicable to real estate investment funds

The tax benefits applicable to real estate investment funds, set up between 1 January 2008 and 31 December 2013, in which at least 75% of their assets are properties subject to rehabilitation work carried out in the areas of urban rehabilitation are revoked, namely exemption from IRC on income obtained, a withholding tax of 10% on IRC or IRS on income relating to units in these funds and a 10% tax on capital gains realized as a result of the sale of units, notwithstanding that such income may be taxed under articles 22 and 22A of the Tax Benefits Statute (tax regime for collective investment undertakings and respective participants).

8. Urban Development Simplex – [SEE Law 50/2023 of August 28]

Context

Recovery and resilience Plan

TD-r33 - Economic Justice and Business Environment, component 18

Goal of reducing unjustified sectoral obstacles to licensing

Decree-Law 11/2023 of February 10

Environmental Simplex

(See [Publication](#))

Program + Housing – urban development simplex

Goals:
Simplifying housing licenses
converting land use:
simplifying translations.

The initial version of draft law 77/XV/1 entered Parliament on **05.02.2023** included:

- a) Draft Law to authorize the government to reform and simplify urban development licenses and zoning.
- b) an authorized decree-law approving measures to promote housing, reduce costs, and simplify administrative procedures for companies.

It is important to underline that the **final approval in Plenary only fell on the final text of the Commission regarding the Draft Law** foreseen in sub-paragraph a) – so that the measures provided for in the authorized Decree-Law may still undergo amendments upon their future approval by the Government.



8. Urban Development Simplex - [SEE Law 50/2023 of August 28]

Highlight of some of the measures provided for in Law 50/2023:

- Increase in situations of exemption from prior control provided for in the RJUE;
- Energy – provides for the improvement of the exemption from urban prior control for the installation of photovoltaic panels or other solar energy production systems;
- Elimination of authorization to use real estate – to be replaced by prior notices;
- Extension of the effects of Prior Favorable Information - The application for a license or the submission of prior notice following favorable prior information may be submitted within a period of two years after the favorable decision on the prior information request. This makes revalidation at the end of year 1 unnecessary.
- Limitation of the extent of regulatory power of Municipalities and clarification of their powers of cognition;
- Interior of buildings and projects in matters of specialties - there will be no prior municipal control in terms of urban planning procedures
- Creation of a digital or interoperable platform, nationwide in terms of urban planning
- Establishment of a regime of tacit deferrals in licensing procedures applied to urban operations and review of deadlines for public entities provided for in the RJUE
- BIM - Obligation to present the architectural project and specialty projects digitally and parametrically modulated and coordinated according to the Building Information Modeling (BIM) methodology, with the possibility of establishing a pilot project only for some municipalities or projects;
- Alteration of the norms applicable to the classification and reclassification of soil, namely in terms of urban soil; Simplification of procedures in terms of land management, namely for the reclassification of rustic land into urban land and to institute a new simplified mechanism for the reclassification of rustic land into urban land, namely without the need for a detailed plan
- Densification of the content of the execution units, so that they have the potential to provide exemption from prior urban control.



Impact?

Measures pending implementation through the future approval of a Decree-Law by the Government

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A informação contida nesta apresentação foi obtida de fontes gerais, é meramente expositiva, e tem de ser interpretada juntamente com as explicações que a acompanham. Esta apresentação não pretende, em nenhum caso, constituir uma assessoria jurídica.

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