

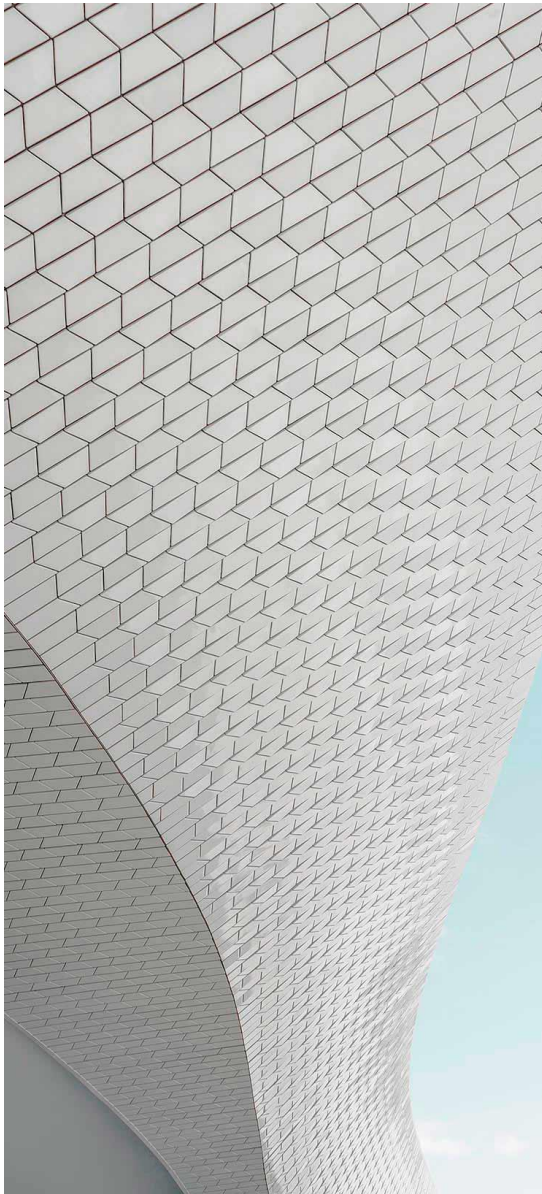
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# End of NHR regime - 2024 State Budget Law approved

**The State Budget Law for 2024 establishes the end of the Non-Habitual Resident regime from 2024 and foresees a new tax incentive for scientific research and innovation.**

## Portugal - Legal Update

December 7, 2023



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### Key aspects

- The State Budget Law for 2024 (“2024 State Budget Law”) was approved by the Portuguese Parliament and confirms the end of the Non-Habitual Resident (“NHR”) regime, starting in 2024.
- The 2024 State Budget Law contains grandfather clauses, allowing taxpayers who already have NHR status to maintain the regime benefits until their 10-year period ends. Also, individuals who become tax residents of Portugal up until December 31, 2023, can still apply for NHR status and enjoy its benefits for the 10-year period.
- The final text of the 2024 State Budget Law amends the initial proposal to include certain exceptions that allow taxpayers who already have existing ties to Portuguese territory, suggesting an ongoing relocation process, to move to Portugal up until December 31, 2024, and still qualify for NHR status.
- A new tax incentive is established for scientific research and innovation, to apply only to taxpayers who relocate to Portugal who earn income from specific job posts and activities.



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In our Legal Update “[End of NHR regime](#)” published on October 11, we outlined the proposed amendments to Portuguese law regarding the NHR regime and the introduction of a new tax incentive for scientific research and innovation.

We have followed the Parliamentary discussions closely, and further to the approval of the final wording of the 2024 State Budget Law on November 29, 2023, this Legal Update outlines the definitive terms and conditions that will apply to the above matters.

The 2024 State Budget Law will now be sent to the President of the Republic for promulgation and subsequent publication in the Official Gazette of the Republic of Portugal, entering into force on January 1, 2024.

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## End of NHR regime?

The current NHR regime provides taxpayers with a more favorable personal income tax (“PIT”) treatment:

- Portuguese-sourced employment income and self-employment income from listed high value-added activities are taxed at a 20% flat rate.
- Foreign-sourced pension income is taxed at a 10% flat rate.
- Foreign-sourced income—excluding pension income—may be exempt if certain criteria are met relating to state-of-source taxation rights for all types and categories of income under applicable double tax treaties.

The 2024 State Budget Law effectively ends the NHR regime, with its termination taking effect on January 1, 2024. However, a few exceptions have been introduced, as outlined below.

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## Are the rights of current NHR taxpayers grandfathered?

Under the 2024 State Budget Law, taxpayers who already have NHR status will be able to continue benefiting from the current NHR regime until their 10-year period ends.



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## Can taxpayers moving to Portugal until the end of 2023 still apply for the NHR regime?

As Portugal allows partial tax residency, taxpayers can move to Portugal in 2023 and register with the tax authorities as tax residents of Portugal, provided they meet the Portuguese tax residency criteria—that is, residing in the country for at least 183 days or having a habitual abode, both within a 12-month period. Moreover, they must not have been tax residents of Portugal in the past five years.

Taxpayers who move to Portugal in 2023 must apply for NHR status by March 31, 2024, at the latest. If approved, NHR status will be effective from 2023, the year they registered as tax residents of Portugal.

Non-EU citizen taxpayers relocating in 2023 must hold a valid residence visa at the time of relocation to be able to register as tax residents of Portugal and apply for the NHR status.

These taxpayers will be able to benefit from the current NHR regime for the applicable 10-year period, which will end in 2032.

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## Was the relocation window extended until the end of 2024?

The final text of the 2024 State Budget Law amends the initial State Budget Law Proposal to include certain exceptions that allow taxpayers who already have existing ties to Portuguese territory, suggesting an ongoing relocation process, to move to Portugal until December 31, 2024, and still qualify for NHR status.

Taxpayers who relocate to Portugal and register as tax residents in 2024 may still be eligible for NHR status, provided they meet one of the following criteria:

- a promise of employment or employment agreement, or a promise of secondment or secondment agreement, executed by December 31, 2023, where the work is to be carried out in Portugal;
- a lease agreement or other agreement granting the use or possession of real estate in Portugal signed by October 10, 2023;
- a reservation agreement or promissory agreement to acquire an in rem right over real estate in Portugal signed by October 10, 2023;
- an enrollment or registration for dependents in an educational establishment domiciled in Portugal, completed by October 10, 2023;



- a residence visa or residence permit valid until December 31, 2023; or
- initiation of the procedure for granting a residence visa or residence permit (by submitting the application, requesting an appointment to submit the application or booking an appointment) by December 31, 2023.

Members of the households of individuals who meet any of the above criteria can also relocate to Portugal in 2024 and still apply for the NHR regime.

These taxpayers will be able to benefit from the current NHR regime for the applicable 10-year period, which will end in 2033.

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## Are additional tax incentives proposed for attracting individuals to Portugal?

### > New tax incentive for scientific research and innovation

The 2024 State Budget Law introduces a new tax incentive for scientific research and innovation to the Portuguese Tax Incentives Code. The incentive will be available to taxpayers who become tax residents of Portugal from 2024, have not been tax residents of Portugal in the past five years, and earn income from the following activities:

- (i) Teaching careers in higher education and scientific research, along with job posts and memberships in statutory bodies of entities recognized as technology and innovation centers under Portuguese law.
- (ii) Qualified job posts and memberships of statutory bodies of entities with contractual benefits linked to productive investment as specifically provided for in Portuguese law.
- (iii) High value-added activities—as defined in a ministerial order yet to be approved—carried out in:
  - a. companies with significant applications, either in the fiscal year when the employee began performing his or her duties or in the five preceding fiscal years, that benefit or have benefited from the Investment Support Tax Regime under the Portuguese Investment Tax Code; or
  - b. industrial and service companies that carry out an activity corresponding to the Economic Activity Code (CAE)—as defined in a ministerial order yet to be approved—and export at least 50% of their business turnover, either in the fiscal year when the employee began performing his or her duties or in the two preceding fiscal years.



- (iv) Other qualified jobs and memberships in corporate bodies of entities that carry out economic activities recognized by the *Agência para o Investimento e Comércio Externo de Portugal, E. P. E.* or by IAPMEI - *Agência para a Competitividade e Inovação, I.P.* as being important for the Portuguese economy, particularly in terms of attracting productive investment and reducing regional disparities.
- (v) Research and development jobs, where costs are eligible for the tax incentives system for research and business development as specifically provided for in Portuguese law.
- (vi) Jobs and memberships in statutory bodies of entities certified as startups under Portuguese law.
- (vii) Jobs or other activities carried out by tax residents in the autonomous regions of the Azores and Madeira, under the terms to be defined by regional legislative decree.

To benefit from this new tax incentive, eligible individuals will be required to register with specific entities and authorities, depending on the nature of the activity or job post involved.

This new tax incentive resembles the NHR regime for high value-added activities. It proposes a reduced tax rate of 20% on the net salary and self-employment income from the above jobs and activities for a 10-year period, starting from the year individuals register as tax residents of Portugal.

Taxpayers who have benefited from or continue to benefit from the NHR regime, as well as those who applied for the Return Program (*Programa Regressar*), cannot apply for this new tax incentive.

This new tax incentive can only be used by the same taxpayer once.

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## Final thoughts

Although the end of the NHR regime has been confirmed, the 2024 State Budget Law provides a small window of opportunity for individuals already in the process of relocating to Portugal to still benefit from the NHR regime if they are relocating in 2024. However, strict conditions apply, narrowing the possibility of applying this “extension” and necessitating a case-by-case analysis.

On the other hand, the impact of the new tax incentive for scientific research and innovation can only be assessed once the ministerial orders and regional decrees regulating it are published. However, an initial assessment indicates that the applicability of the incentive is considerably restricted.



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