

# TAX NOTICE - Portugal

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If the Policyholder's country of tax residence is Portugal

This information notes describes the main characteristics of the current Portuguese tax regime of life insurance and capitalisation policies taken out by an individual.

This document is namely designed to subscribers and beneficiaries who are resident in Portugal from a tax perspective.

The Company strongly recommends to the Subscriber that, before taking out the Insurance policy and during the execution of the Contract, he/she should obtain advice from a qualified authorised tax adviser in order to understand perfectly the tax regime of the Contract and to obtain answers to questions about specific situations.

## THE POLICYHOLDER'S ATTENTION IS DRAWN TO THE FACT THAT:

- the present Note gives only a general explanation of the main characteristics of the tax regime applicable to the Contract,
- the characteristics of the tax regime applicable to the Contract may change during the Contract,
- the information on the main characteristics of the tax regime for the Contract (i) are given subject to changes in the regulatory and legislative provisions in force and (ii) have no contractual value. This information is communicated purely as an informative guide, the Company strongly recommends that the Policyholder, before signing the insurance Proposal and during the execution of the Contract, obtains advice from a qualified and

authorised tax adviser in order to have full knowledge of the tax regime for the Contract and to seek solutions to particular situations.

## 1. LIFE INSURANCE TAX TREATMENT

The Portuguese tax law does not provide with any specific obligation to communicate the investments in insurance products subscribed abroad.

### Article 1 - Life insurance contract's tax treatment

#### Article 1.1 - Tax deductibility of premiums

##### Article 1.1.1 Premiums paid in cash

Under Portuguese tax legislation, life insurance expenses are only deductible for short-lived professions (e.g., sportsmen, miners, fishermen) and disabled individuals (disability of 60% or higher duly proved by a medical statement).

Both deductions are only applicable if the coverage guarantees exclusively death, physical invalidity or retirement benefit (article 27 and 87 of the Personal Income Tax Code – PIT Code).

For individuals who exercise a short-lived profession the premiums are deductible against their gross income up to EUR 2.402,15.

Please note that, in regards to the retirement benefit, the following requirements must also be met :

The tax regime applicable to the Contract on the Date of conclusion of the Contract is the tax system of Portugal as the country of main and habitual residence of the Policyholder on the Date of conclusion of the Contract. The main characteristics of the tax regime applicable to the Contract on January 2023 are explained in this Note.

- The lifetime of the contract must be at least 5 years and;
- The benefit should be guaranteed after the policyholder has reached 55 years of age.

For disabled individuals, 25% of the premiums are tax deductible up to 15% of the individual's tax liability. However, in regard to premiums which cover retirement benefit the limit is 65 EUR/year (single policyholder) or 130 EUR/year (married policyholder).

##### Article 1.1.2 Premiums paid via in specie transfers

If premiums are paid via in specie transfers, the above-mentioned tax deduction may also be available provided that the coverage covers exclusively death, physical invalidity or retirement benefits.

Depending on the tax legislation in force, in specie transfers may be subject to capital gains or income tax.

### **Article 1.1.3 Premiums paid in shares**

The fact that premiums are paid in the form of shares does not have any consequence on the tax treatment described in section 1.1.1 and 1.1.2.

## **Article 1.2 - Income tax treatment on partial withdrawals or total surrender**

### **Article 1.2.1 Tax base**

#### **(i) Partial withdrawal or total surrender**

The taxable income is given by the difference between the amount received and the premiums paid (Category E of the PIT – investment income).

The legislation does not discriminate between the income and the capital and, instead, relies on this simple formula to tax any excess of withdrawals over premiums (as such, in case of partial surrenders, the policyholder should have information on the capital and income components to determine the taxable income accordingly).

If at least 35% of the total premiums are paid in the first half of the contractual period (“front ended” policies), a partial exemption of taxation applies, as follows:

- 1/5 of the income is excluded from taxation if the payment or surrender occurs after 5 and before 8 years of the contractual period (only 80% of the income is taxable);
- 3/5 of the income is excluded from taxation if the payment or surrender occurs after 8 years of the contractual period (only 40% of the income is taxable).

If the life insurance contract has no fixed term, the above 35% rule has to be observed for the first half of the period running from the subscription date to the withdrawal date.

The endorsement of the contract to another policyholder does not attract any personal income taxation to the policyholder, as no provision in that way is contained in the PIT code.

#### **(ii) Withdrawal in the form of annuities**

In case the distribution occurs in the form of annuities (monthly/ periodic pension payments), the amounts received are taxable as pension income (Category H of the PIT).

An exclusion of taxation of the premium’s component included in the annuities is applicable (whenever the amount of premiums included in the annuities is not identified, it is presumed that 85% of the annuity represents capital and, therefore, only 15% of the amounts withdrawn qualify as taxable income).

Pension income also benefits from a specific annual deduction against the taxable income in the amount of EUR 4,104.

Withdrawals, whether regular or not, that do not qualify as annuities, are subject to the rules identified above for partial withdrawals or total surrender.

### **Article 1.2.2 Tax rate**

In case of surrender (full or partial), income derived from life insurance products is subject to autonomous taxation at 28%. However, the individual may opt to add such income to the remaining income in his personal income tax return, being subject to taxation on the aggregate income at marginal rates varying between 14.5% and 48% plus a solidarity surtax (according to the tax rates in force in January 2023).

A solidarity surtax of 2,5% and 5% is also due on taxable income subject to marginal tax rates exceeding EUR 80,000 and EUR 250,000, respectively (as per the rules in force in January 2023).

In case of withdrawal in the form of annuities, the income derived from life

insurance products is deemed as pension income and subject to taxation at marginal rates varying between 14.5% and 48% plus the referred solidarity surtax (according to the tax rates in force in January 2023).

### **Article 1.2.3 Tax return**

In case of a partial withdrawal or a total surrender, the income derived from life insurance products paid out by an entity not residing in Portugal will have to be included in the Annex J of the Portuguese personal income tax return.

However, should this income be paid out by a company residing in Portugal or a branch of a non-residing company operating in Portugal, it will be subject to a final withholding tax (28% according to the tax rates in force in January 2023) and, therefore, it should only be included in the personal income tax return if the taxpayer opts to add this income to the remaining income in his personal income tax return, in order to be subject to taxation on the aggregate income at marginal rates.

Should the distribution occur in the form of annuities, the pension income will, in all circumstances, have to be included in the Portuguese personal income tax return, and is subject to the above referred marginal rates.

## **Article 1.3 - Income tax treatment on switches**

Switching between units occurring within a life insurance contract that remains unchanged is not a taxable event.

## **Article 1.4 - Income tax treatment on underlying investment yield**

### **Article 1.4.1 Tax base**

No taxation.

### **Article 1.4.2 Tax rate**

N/A.

## **Article 1.5 - Tax regime of the life insurance part, in case of death of the life-assured**

### **Article 1.5.1 Income tax treatment upon death**

Life insurance benefits paid out upon death of the life-assured are not subject to taxation for the purposes of the individual income tax (article 12-1-b of the PIT code).

### **Article 1.5.2 Inheritance tax**

Life insurance benefits are not subject to inheritance tax.

## **Article 1.6 - Tax regime of the additional death coverage**

### **Article 1.6.1 Income tax treatment**

Death insurance benefits paid out upon death of the insured person are not subject to taxation for the purposes of the individual income tax (article 12-1-b of the PIT Code).

### **Article 1.6.2 Inheritance tax**

Death insurance benefits are not subject to inheritance tax.

## **Article 1.7 - Gift Tax**

The assignment of the contract to another policyholder, is subject to gift tax, at the rate of 10%.

An exemption is applicable to spouses, legal partners, ascendants and descendants in straight line.

## **Article 1.8 - Wealth tax**

Non applicable.

## **Article 2 - Other tax obligations: Premium taxes**

Life insurance products, for which the risk is located in Portugal, are subject to additional charges and indirect taxes, as follows:

### **Premium taxes:**

- ASF (Insurance Supervisory Authority) Tax: 0,048% on the total amount of life insurance premiums. The value of this tax is charged as a fee to the client and then paid by the Company to the Portuguese supervisory.
- Stamp Tax: Life insurance premiums are exempt.
- INEM (National Institute for Medical Emergencies) Tax: 2,5% on the collected premiums (or 2,5% on the part of the premium related to the death risk coverage). Tax charged directly by Allianz to the client on behalf of INEM.

## **2. CAPITALIZATION CONTRACTS' (CAPITAL REDEMPTION OPERATIONS) TAX TREATMENT**

The tax treatment of the capitalization contracts is the same as described above for the life insurance contracts, except regarding the following:

- a) No possibility of tax deduction;
- b) INEM tax: not applicable.
- c) ASF Tax: not applicable
- d) Stamp duty: 4% on the management commissions charged by the insurance company.

## **3. THE NON-HABITUAL TAX RESIDENTS' REGIME**

### **Article 1 - An overview of the regime**

The non-habitual tax residents' regime is a special tax regime which foresees, among others, a tax exemption (with progression) on foreign sourced income, namely capital income etc., provided certain conditions are met.

### **Article 2 - Eligibility and registration within the regime**

In order to benefit from this regime, an individual shall be considered as Portuguese tax resident in the year that the application is filed and must not have been considered tax resident in Portugal in the previous 5 years.

If an individual meets the above criteria and qualifies as non-habitual tax resident in a certain year, an application shall be filed with the Portuguese tax authorities, until March of the year following the one in which the individual became tax resident in Portugal. Upon acceptance of the application by the Portuguese tax authorities, an individual may then benefit from the regime for a 10-consecutive year period.

## **Article 3 - Main advantages of the regime**

One of the main advantages of the regime is the possibility of being exempt from taxation in Portugal on foreign source income, such as capital income, rental income and capital gains given that one of the following conditions are met:

- (i) Such income may be taxed in the State of source under the rules of a Double Tax Treaty (DTT); or
- (ii) Such income may be taxed in the State of source ("blacklisted" tax havens excluded) under the rules of the OECD Model Tax Convention on Income and on Capital (if no DTT exists) and it is not regarded as arising from a Portuguese source, under Portuguese tax rules.

Additionally, for individuals who have qualified as non-habitual tax resident for the tax years until 2019 and those registered as tax residents until 31 March 2020, who apply for the non-habitual resident regime, pension income earned will be exempt from taxation in Portugal, if one of the following two conditions is met:

- (i) If such pensions were subject to tax under an existing DTT in the source country;
- or
- (ii) If the pension should not be considered as obtained in Portugal.

This regime would be very beneficial

for policyholders, as it may allow an exemption from taxation in Portugal on the income arising from surrenders of life insurance policies held abroad, whether they are made fully or partially in form of annuities.

In case of withdrawal in form of annuities, the amounts received are regarded as pension income and whenever they are not considered as obtained in Portugal, they are fully exempt from taxation in Portugal under the non-habitual tax residents' regime irrespective of the tax treatment in the country of source.

Individuals who do not qualify as non-habitual tax residents in the conditions above referred, will have pension income from a foreign source subject to a 10% tax rate.

On the other hand, if surrenders made fully or partially are regarded as capital income in the source country, the possibility of exemption from taxation in Portugal will only apply if the country of source has taxation rights under a DTT signed with Portugal or under the rules of the OECD Model Tax Convention on Income and on Capital (provided the income is not regarded as arising from a Portuguese source). In general terms, if the income generated qualifies as interest in the source country, it may be exempt from taxation in Portugal. However, if it qualifies as other capital income (e.g. income from insurance policies), it may be the case that only Portugal is entitled to tax such income in which case no exemption will apply.

#### **4. PROFESSIONAL SECRECY APPLICABLE TO INSURANCE**

The Company is required to comply with the rules relating to professional secrecy in force in the Grand Duchy of Luxembourg pursuant to Article 300 of the Law of 7 December 2015.

Thus, the information collected within the framework of the Contract must be kept secret under penalty of being exposed to the penalties provided for in Article 458 of the Luxembourg Criminal Code. On the basis of these provisions, the Company may only be authorised to communicate to any third party the confidential information that the Company holds under the Contract in accordance with an instruction of the person concerned.

However, the Company may be obliged by virtue of a law or international conventions to derogate from insurance secrecy and to have to communicate confidential information that it holds under the Contract in accordance with a formal instruction and thus, for example, according to the Double Taxation Treaties concluded by Luxembourg following the OECD standards, the tax authorities could be authorised to request information within the framework of the exchange of information.

Furthermore, in view of the professional secrecy requirements under Luxembourg law and in order to enable the Company to meet its other obligations under the tax regime applicable to the Contract, each:

- Policyholder, Insured (if different from the Policyholder(s)),
  - Accepting Beneficiary during the term of the Policy,
  - Beneficiary at the end in the event of the death of the Insured,
- may be required by virtue of the applicable tax legislation to give express, special and irrevocable authorisation and mandate to the Company, (i) to make any tax declaration and any payment to the tax authorities authorised to receive such information and competent in application of the Contract, (ii) to communicate to the Beneficiary(ies) all the information required by the applicable tax regime, either directly or through a third party agent appointed by the Company.