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LOCAL LODGING LAW CHANGES: WHAT'S DIFFERENT FROM NOVEMBER 2024

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The Local Lodging (AL) sector in Portugal is undergoing significant changes with the introduction of new regulations that come into effect on November 1st, 2024.

These changes, aim to address various issues within the sector and provide a more structured framework for short-term rentals.

This new decree changes some of the rules that came into force in October 2023, when the More Housing Law Package (Mais Habitação) started.

Revocation of Previous Measures:

One of the most notable changes is the revocation of Article 19 from the "Mais Habitação" law, which previously restricted new AL registrations.

From November 1, 2024, new AL registrations will be allowed across the country, except in certain Contention Areas. These areas, currently implemented in most of Lisbon and central Ericeira, will continue to have restrictions on new registrations.

We suggest that anyone looking to obtain a AL license to their apartment to act quickly. In fact this law decree attributed new powers to the municipalities, which means that in case the local council wants to restrict the touristic rentals, they may act quickly and determine contention areas within the council.

Transmissibility of AL Licences:

The new regulations also make AL licences transmissible under all circumstances, except in Contention Areas where municipal rules may differ. This change provides greater flexibility for property owners, allowing them to transfer their AL licences more easily. So from now on, it should be possible to transfer the rental license, when you are selling your apartment or villa.

Changes to Operational Limits:

For ALs implemented in primary residences, the previous limit of being open for more than 120 days has been removed.

This means that property owners can now operate their ALs year-round without any restrictions on the number of days they can be open.

Hostel Requirements:

Hostels will still require unanimous approval from the condominium to obtain an AL licence in horizontal property buildings.

This measure ensures that all residents in a building agree to the operation of a hostel, thereby reducing potential conflicts.

Municipal Oversight:

The municipality now has the authority to oppose the registration of ALs within 60 days (90 days in Contention Areas).

Additionally, property owners can request an inspection during the registration process if a licence is not granted. This increased oversight aims to ensure that all ALs comply with local regulations and standards.

Cancellation of AL Licences:

The new regulations also introduce provisions for the cancellation of AL licences. If a condominium votes by a majority (more than 50% of the total owner share) to cancel an AL due to proven and repeated acts of disturbance, the municipality can immediately cancel the licence. However, the licence holder has the right to reply in person, and any cancellation cannot exceed five years.

Capacity Limits and Additional Services:

The maximum capacity for ALs registered as Apartamentos or Estabelecimento de Hospedagem is now set at nine rooms and 27 guests.

Additionally, fold-up or extra beds may be installed as long as their number does not exceed 50% of the "normal" beds. ALs registered as Estabelecimento de Hospedagem may also implement other services such as the provision of food and drink.

Communication and Insurance Requirements:

The person responsible for the AL must communicate their telephone number and email address to the condominium administration.

Furthermore, the municipality may request that the AL licence holder provide the contract of the appropriate AL insurance within three days.

Contention Areas and Areas of Sustainable Growth:

Municipalities have the authority to create Contention Areas and Areas of Sustainable Growth. Contention Areas are defined as those having a surplus of ALs, while Areas of Sustainable Growth are monitored to prevent a surplus of ALs. These measures aim to balance the supply of ALs and ensure sustainable growth within the sector.

Taxation remains the same on operation and sale of the property:

These new Alojamento Local regulations effective from November 1, 2024, bring significant changes to the sector, by revoking previous restrictions, but please note that these changes do not bring any tax alterations. This means that the taxation of your AL operation remains the same as well as the CGT rules on the sale of the property.

If you personally own a property with an AL license and you are conducting the business directly (as a sole trader) the limit of 3 years remains. This means that you need to stop the activity and wait 36 months before selling, to be able to reduce your tax liability to the normal rules. If you sell with the AL or within 36 months of stopping the rental activity, you won't be able to deduct any expenses to the capital gains liability and the tax will be assessed on 95% of the gain.

As this CGT rule penalises considerably the owners of property with AL, we urge property owners to plan ahead, meeting with us before placing the property in the market. There may be opportunities available to reduce the capital gains liability and we can help you to take advantage of these.

LOCAL LODGING	PREVIOUS REGIME (until October 31, 2024)	NEW REGIME (from November 1, 2024)
SUSPENSION OF NEW REGISTRATIONS	Suspension of new registrations of apartments and lodging establishments integrated into an autonomous fraction of a building, throughout the national territory, except in designated Interior Regions.	Abolished
REASSESSMENT OF REGISTRATIONS	All registrations would be reassessed in 2030 and would have a validity of 5 years.	Abolished
RENEWAL OF REGISTRATION	Valid local lodging registrations for 5 years, renewable for the same period and subject to explicit resolution by the City Council.	Abolished
EXPIRATION OF INACTIVE REGISTRATIONS	To continue the activity, a contribution declaration proving its ongoing operation was required. Failure to provide this proof would result in the registration's expiration.	Abolished
TRANSFERABILITY OF REGISTRATION	Personal and non-transferable local lodging registration.	Abolished (Except as established by the municipality in contention areas)
EXPIRATION OF REGISTRATIONS	<p>The operating license will expire under the following conditions:</p> <p>a) Transfer of registration ownership, termination of operations, leasing, or any change in ownership or control of the operation.</p> <p>b) Transfer of any share of the legal entity's capital holding the registration, regardless of the percentage transferred.</p>	Abolished

LOCAL LODGING	PREVIOUS REGIME (until October 31, 2024)	NEW REGIME (from November 1, 2024)
REGISTRATION OF LOCAL LODGING ESTABLISHMENTS (use of the fraction)	If a local lodging establishment is registered within an autonomous unit of a building designated for residential use under a horizontal property regime, unanimous approval from the condominium is required to authorize its operation.	Abolished
CANCELLATION OF REGISTRATIONS	<p>The registration may be canceled due to:</p> <ul style="list-style-type: none"> . Non-compliance with information or documents provided in the registration; . Establishment of new local lodging within restricted areas; . Violation of legally defined requirements. 	<p>In addition to the reasons outlined in the previous regime, the cancellation of the registration may also occur due to:</p> <ul style="list-style-type: none"> . Absence of a valid mandatory insurance policy or failure to provide proof of its issuance. . Repeated and substantiated actions that disrupt the normal use of the building, unless the case is resolved through accepted commitments and conditions. . In contention areas, if permanent residential lease contracts have been in place during the two years preceding the registration request, in violation of municipal regulations.

LOCAL LODGING	PREVIOUS REGIME (until October 31, 2024)	NEW REGIME (from November 1, 2024)
MUNICIPAL REQUIREMENTS FOR APPROVED LOCAL LODGING ACTIVITIES	It did not specify	<p>The municipal regulation must clearly delineate the permissible uses for local lodging (AL) activities. These regulations should take into account the following:</p> <ul style="list-style-type: none"> a) In the room rental category, only residential use is permitted. b) For houses and apartments, the acceptance of non-residential use is contingent upon compliance with the requirements outlined in the Legal Regime for Local Lodging. c) In the lodging establishment category, including those designated as "hostels," the city council may permit non-residential uses, based on the specific lodging type and the establishment's capacity.
INSPECTIONS	Carried out within 30 days after submitting the prior notification with a deadline	Carried out within 90 days (in a contention area) or 60 days (outside a contention area) after submitting the prior notification with a deadline
CONDOMINIUM ASSEMBLY	Opposition to the operation of local lodging can be expressed through a resolution approved by a two-thirds majority of the condominium ownership share, unless the specific unit was designated for local lodging activity or there is an explicit resolution from the condominium authorizing its use.	Opposition to the operation of local lodging may be initiated through a substantiated resolution approved by a majority of the building's ownership share. This resolution should be based on documented, repeated actions that disrupt the normal use of the building or cause disturbances affecting the other residents of the condominium.

LOCAL LODGING	PREVIOUS REGIME (until October 31, 2024)	NEW REGIME (from November 1, 2024)
MAXIMUM CAPACITY	A total of 9 rooms can accommodate up to 30 guests (excluding the 'room' and 'hostel' modalities). Each unit, provided it meets adequate habitability standards, may include a maximum of two additional beds for children up to 12 years old.	A total of 9 rooms can accommodate up to 27 guests (excluding the 'room' and 'hostel' modalities). If suitable conditions are met, convertible and/or additional beds may be added, provided that the total number of beds does not exceed 50% of the fixed beds.
CONTENTION AREAS	<p>Established by municipal regulation and reevaluated at least every two years, municipalities may:</p> <p>Impose limits on the number of local lodging establishments, taking into account percentage restrictions based on the availability of residential properties.</p>	<p>Established by municipal regulation and reevaluated at least every three years, municipalities may determine the following:</p> <p>New registrations of local lodging establishments cannot be authorized in urban buildings, autonomous units, or parts of urban buildings designated for independent use that have been subject to a residential lease contract in the two years preceding the registration.</p> <p>Limits on the number of local lodgings in relation to the availability of housing units. Exceptional circumstances under which the installation of new local lodging establishments is permitted in contentious areas.</p> <p>Conditions and restrictions applicable to new local lodging registrations, particularly regarding duration and assignment rules.</p> <p>Proportional limitations on the transferability of new local lodgings in the house and apartment categories (excluding cases of succession, free transfer of the lodging unit to a spouse or de facto partner, descendants, or ascendants, as well as divorce, judicial separation, or dissolution of a Common-law Marriage).</p>

LOCAL LODGING	PREVIOUS REGIME (until October 31, 2024)	NEW REGIME (from November 1, 2024)
SUSTAINABLE GROWTH AREAS	They did not exist.	<p>These are areas designated by municipal regulation where enhanced monitoring and oversight measures are warranted. Municipalities may impose additional requirements for the establishment of local lodging, including:</p> <ul style="list-style-type: none"> a) Prohibiting new registrations of local lodging in urban buildings, autonomous units, or portions of urban buildings suitable for independent use that have been subject to a residential lease contract within the two years prior to registration; b) Ensuring the property's state of conservation is rated as average or above; c) Requiring an energy efficiency rating of D or higher; d) Maintaining a specified proportion or minimum number of residential units or parts of buildings designated for housing where local lodging establishments do not operate.
MUNICIPAL REGULATIONS FOR LOCAL LODGING	Only for contention areas.	<p>All municipalities have the authority to enact regulations governing local lodging activities within their jurisdictions. In municipalities with over 1,000 registered local lodging establishments, the municipal assembly is required to hold a formal deliberation to consider the approval of such regulations.</p>

LOCAL LODGING	PREVIOUS REGIME (until October 31, 2024)	NEW REGIME (from November 1, 2024)
LOCAL LODGING PROVIDER	They did not exist.	<p>Optional entity established through municipal regulation. Purpose: To assist municipalities in resolving disputes among residents, operators of local lodging establishments, condominium owners, and other interested parties. Responsibilities: a) Review and address complaints; b) Provide recommendations; c) Approve and implement best practice guidelines for the operation of local lodging activities.</p>
INSPECTION	Parish Councils had supervisory powers.	Abolished
TAXATION	<p>If you personally own a property with an AL license and you are conducting the business directly (as a sole trader) the limit of 3 years remains. This means that you need to stop the activity and wait 36 months before selling, to be able to reduce your tax liability to the normal rules. If you sell with the AL or within 36 months of stopping the rental activity, you won't be able to deduct any expenses to the capital gains liability and the tax will be assessed on 95% of the gain.</p>	<p>There is no tax alterations. This means that the taxation of your AL operation remains the same as well as the CGT rules on the sale of the property.</p>



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For any questions or assistance with local lodging for businesses, our experienced team is here to help you navigate every step. Reach out to us at info@afm.tax or call +351 281 029 059

"YOU MUST PAY TAXES, BUT THERE'S NO LAW THAT SAYS YOU NEED TO LEAVE A TIP."