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FREELANCER VS. COMPANY: WHICH IS BETTER FOR YOU IN PORTUGAL?

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When considering the best way to structure your professional activities in Portugal, you may find yourself weighing the pros and cons of working as a freelancer (working under green receipts) versus establishing a company.

Both options have their unique advantages and challenges, and the right choice depends on your specific circumstances, goals, and the nature of your work. We will try to explain the key differences between freelancing and running a company in Portugal, focusing on tax implications, administrative responsibilities, and other critical factors.

1. Understanding the Basics

Freelancing in Portugal

Freelancers, or "trabalhadores independentes," operate as self-employed individuals. They provide services to clients without being tied to a single employer. Freelancers in Portugal must register their activity with the Portuguese Tax Authority and they are also required to issue invoices for their services and keep accurate records of their income and expenses. When you operate like this, it means that you and the business are the same entity and share the same tax number, meaning that you personally assume the full liability of your business.

Establishing a Company in Portugal

Setting up a company in Portugal involves creating a separate legal entity, such as a limited liability company (Sociedade por Quotas, Lda) or a sole proprietorship (Sociedade Unipessoal Lda). This process requires registering the company with the Commercial Registry and obtaining a company tax identification number.

Companies must also maintain detailed financial records and comply with various regulatory requirements. Companies are required to appoint a director and also appoint a certified accountant, who will be responsible for all the VAT and corporate tax reports (amongst other obligations). In Portugal the accountant is jointly responsible for the timely submission of all these reports and taxes.

One of the main advantages of establishing a company is the limited liability. Shareholders' liability is generally limited to the amount of their share capital in the company, but please note that the director is always personally liable for any debts to employees, social security debts and tax debts.

2. Tax Implications

Freelancers

Freelancers in Portugal are subject to personal income tax and in most cases use the simplified regime. The simplified regime means that you will be assessed on a percentage of your gross income, rather than your profit, although it is also possible to choose the normal regime (tax paid on the profit). As in the Personal income Tax rates are progressive, it means that higher taxable income levels are taxed at higher rates.

However if you have the NHR status or the new Tax incentive (TISR also known as NHR 2.0) providing your activity is eligible, your tax rate will be fixed to 20% and this could indeed be very tax efficient. For instance most contractors in the simplified regime generally taxed on 75% of their gross income, if their tax rate is fixed at 20%, it means that their effective tax rate is 15% (20% of 75%).

Please note that despite being on the simplified regime, freelancers may also be required to deduct certain business expenses to assure that they keep their taxable coefficient, such as office supplies, travel expenses, professional development costs and social security payments.

Freelancers must also pay social security contributions based on their income. Normally when registering as a freelancer for the first time, you will have a 12 month exemption period, but after this, you will pay monthly social security contributions, which are based on the income from the previous quarter. This means that you will always pay a minimum monthly contribution of 20€ (if no income registered in the previous quarter) and a maximum of approximately 14.90% of the gross income, with a monthly cap of 1.341e.

Companies

Companies in Portugal are subject to corporate income tax and the appointed directors need to start paying social security contributions from the first day. They also need to appoint a certified accountant. The standard Corporate Tax rate in Portugal is 20%, but small and medium-sized enterprises (SMEs) benefit from a reduced rate on the first 50.000€ of profit; the reduced rate is currently 16%.

A limited company allows you to have a shield between you and your business and allows normally more deductions than a sole trader. It is also recommended when you make considerable investments on the beginning of your busi-

ness, as the losses can be offset against future profits.

3. Administrative Responsibilities

Freelancers

In Portugal although a freelancer is not legally required to appoint an accountant, it still has multiple administrative responsibilities (lower when compared to companies). They must issue invoices through certified software, send the sales file every month to the tax portal and also inform the tax authorities in case there was no invoicing, keep records of their income and expenses, and file annual tax returns. Freelancers can use the simplified tax regime if their annual income is below 250k per annum. However, they must still comply with VAT regulations if their turnover exceeds the VAT registration threshold, which is 15.000€ per year. Please note that non-residents are not eligible for the VAT exemption and will always be liable for VAT even if their turnover is below the threshold.

Companies

Running a company involves more complex administrative tasks. Companies must maintain detailed financial records, prepare annual financial statements, and file corporate tax returns. They are also subject to VAT regulations and must submit regular VAT returns. Additionally, companies must comply with employment laws, including payroll processing and employee benefits administration.

4. Decision-Making Factors

When deciding between freelancing and establishing a company in Portugal, consider the following factors:

- **Income Level:** Higher income levels may benefit from the lower corporate tax rates available to companies.
- **Business Expenses:** Companies can deduct a wider range of business expenses, potentially reducing taxable income.
- **Liability:** Limited liability protection may be crucial for businesses with significant financial risks.
- **Administrative Burden:** Freelancers face fewer administrative responsibilities, making it easier to manage their business.
- **Growth Potential:** Companies may have better access to financing and investment opportunities, supporting long-term growth.

Conclusion

Choosing between freelancing and establishing a company in Portugal depends on your individual circumstances and business goals. Freelancers enjoy greater flexibility and simpler administrative responsibilities, while companies benefit from limited liability and potential tax advantages.

When deciding on a business structure, it is important to consider factors such as income level, the proportion of business expenses, liability issues, and growth potential. It is possible to begin operating in Portugal as a sole trader and later transition to a company. Understanding whether you already own a company overseas or are self-employed can affect your tax position in Portugal and it is also necessary to assess whether your foreign business has substance or if there is a possibility that the Portuguese Tax Authorities may treat it as a Portuguese tax resident.

Another important factor to consider before making a decision is the new Tax Incentive (TISRI/NHR 2.0), as qualifying requires employment with a Portuguese entity; self-employment alone does not meet this criterion.

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