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all finance matters

PROPERTY INCOME

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R. Detrás dos Álamos 1B
8800-604 Tavira

Rua Frederico Lecor, Nº 53 B
8000-247 Faro

E : info@afm.tax

P : +351 281 029 059 | +44 (0) 20 3151 0021

W : www.afm.tax

Understanding Informação Vinculativa (Binding Information): Property income – Deduction of the monthly installment paid for a contracted loan_IV 26967

What is Informação Vinculativa (Binding Information)?

Binding Information, refers to an official response issued by tax authorities in Portugal, addressing specific queries from taxpayers regarding the interpretation or application of tax laws in particular situations. These rulings hold legal authority and must be followed by both the taxpayer and the tax authority, provided that the circumstances remain unchanged.

Importance of Binding Information:

Formality: They provide an official and authoritative interpretation of tax legislation.

Obligation: Both the tax authority and the taxpayer must adhere to the ruling, provided the facts presented remain unchanged.

Legal Certainty: Binding rulings offer taxpayers clarity and legal certainty regarding their tax obligations. By outlining how tax laws apply to their specific circumstances, taxpayers can plan and conduct their financial activities with confidence.

Procedure: Taxpayers must formally request binding information by detailing their specific circumstances for accurate analysis.

Facilitating Planning: Provides confidence for taxpayers in planning their financial activities.

Avoiding Disputes: Ensures compliance with tax laws, thereby reducing potential disputes with tax authorities.

Ensuring Fairness: Promotes fairness in tax treatment by providing consistent interpretations of tax laws.

Example Scenario:

Legislation: Personal Income Tax Code

Article/Item: : Art. 41 – Deductions

Subject: Property income – Deduction of the monthly installment paid for a contracted loan

Details of the Scenario:

Request for Binding Information: The applicant requests binding information on the possibility of deducting the monthly installment paid on a loan taken out to acquire a property intended for rental to higher education students residing away from their primary homes, from the income earned through this rental.

The applicant clarifies that they acquired an autonomous residential unit in a multi-family building with condominium ownership and, as of September 2024,

intend to offer the property for rental to higher education students due to the high demand for this type of accommodation in the region.

Response and Guidance:

1. Under paragraph 1 of Article 41 of the IRS Code, gross income referenced in Article 8 (income from category F, or property income) is deducted, for each building or part of a building, by all expenses actually incurred and paid by the taxpayer to obtain or secure such income, including rental insurance, with the exception of financial expenses, depreciation, and expenses related to furniture, appliances, and items of comfort or decoration, as well as the additional municipal property tax.

2. In the case under review, the applicant wishes to know if it is possible to deduct the monthly payment made to the bank related to the loan taken out for the purchase of the rental property.

3. Since a bank loan constitutes a financial expense, under Article 41 of the IRS Code, it cannot be considered a deductible expense for category F of the same code, as such expenses are expressly excluded from deduction.

Conclusion:

Binding information provides essential guidance on specific tax matters, helping taxpayers make informed decisions and comply with regulations. In this case, the applicant sought clarification on the potential tax deductions related to property rental income under Portuguese law.

In conclusion, as outlined in Article 41 of the IRS Code, financial expenses, including loan payments for property acquisition, are not deductible from property income (Category F) for tax purposes. Although the applicant's loan was specifically taken to acquire a property intended for student rental, loan payments are classified as financial expenses and thus excluded from tax deductions. This guidance ensures that taxpayers receive accurate information, aiding compliance with tax laws and preventing potential errors in their tax filings.

The image shows two miniature house models on a desk. The one on the left is white with a grey roof, and the one on the right is tan with a blue roof. They are placed on top of architectural blueprints. The background is a blurred office setting with a laptop and other papers.

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