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TAXATION OF INCOME EARNED IN THE UNITED STATES BY AN INDIVIDUAL RESIDENT IN PORTUGAL

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Introduction

An analysis was requested of the Portuguese personal income tax treatment of income earned in the United States by an individual resident in Portugal, as well as the corresponding reporting obligations under Portuguese tax law.

The case concerns a retired taxpayer holding both U.S. and Brazilian nationality who, in 2025, qualifies as a tax resident in Portugal and receives income of U.S. source of various categories.

For the correct assessment of this situation, it is necessary to consider the interaction between the Portuguese Personal Income Tax Code and the Double Taxation Convention concluded between Portugal and the United States, including its Protocol, whose application is particularly complex when U.S. nationality is involved.

Tax framework applicable to foreign-source income

Under Article 15(1) of the Portuguese Personal Income Tax Code, individuals who are tax resident in Portugal are subject to Portuguese personal income tax on their worldwide income, including income obtained abroad.

However, where foreign-source income is involved, reference must be made to the applicable Double Taxation Convention. In this case, the relevant instrument is the Convention between Portugal and the United States, which determines the allocation of taxing rights between the State of residence and the State of source.

Private pension fund income

Pursuant to Article 20 of the Portugal–U.S. Double Taxation Convention, pensions paid from private pension funds, where they arise from previous employment, are taxable exclusively in the State of residence of the beneficiary. The same rule applies where the amounts received result from contributions made by the beneficiary.

Accordingly, as a general rule, where the beneficiary is resident in Portugal, such pension income is subject to taxation only in Portugal.

U.S. social security pensions

Pensions and other benefits paid under the U.S. social security system are subject to shared taxation. This means they may be taxed both in the United States and in Portugal, in accordance with the domestic legislation of each State.

In these cases, Portugal, as the State of residence, is responsible for eliminating double taxation by granting a foreign tax credit, pursuant to Article 81 of the Portuguese Personal Income Tax Code. The credit is limited to the lower of the tax paid in the United States and the portion of Portuguese tax attributable to the U.S.-source income.

Interest and dividends

Interest from financial investments and dividends from shares of U.S. source received by a Portuguese tax resident are also subject to shared taxation, in accordance with Articles 11 (interest) and 10 (dividends) of the Convention.

This shared taxation is, however, limited, as the Convention establishes maximum withholding tax rates that may be applied by the State of source. In the case of dividends, the rate may not exceed 15 per cent, and in the case of interest, 10 per cent.

As with U.S. social security pensions, Portugal eliminates double taxation through the foreign tax credit mechanism provided for in Article 81 of the Personal Income Tax Code.

For the reduced rates provided under the Convention to apply in the United States, the income recipient must demonstrate Portuguese tax residence in advance, by means of a tax residence certificate issued by the Portuguese Tax Authority, available through the Portuguese Tax Portal.

Impact of the Convention Protocol

Notwithstanding the above, particular attention must be given to the Protocol annexed to the Convention, which forms an integral part thereof. Under Article 1(b) of the Protocol, the United States reserves the right to tax its citizens as if the Convention had not entered into force.

This means that where the income recipient is a U.S. citizen, the United States may tax all income on the basis of nationality, irrespective of the allocation of taxing rights set out in the Convention.

In practical terms, this may result in income that would normally be taxable exclusively in Portugal, such as private pension income, also being taxed in the

United States. Likewise, interest and dividends may be subject to U.S. domestic tax rates, without application of the limitations established in the Convention.

In such cases, the responsibility for eliminating double taxation shifts from Portugal to the United States, which must allow a credit for the tax paid in Portugal, in accordance with Article 25 of the Convention.

Reporting obligations in Portugal

Regardless of the applicable taxation regime, all income earned in the United States by an individual resident in Portugal must be reported in the Portuguese annual personal income tax return (Modelo 3), through Annex J.

Pension income must be reported in Box 5 of Annex J, while interest and dividend income must be reported in Box 8, using income codes E21 and E11, respectively.

Only the tax paid in the United States in accordance with the provisions of the Convention should be reported for foreign tax credit purposes. Any tax paid in the United States solely on the basis of nationality under the Protocol should not be considered eligible for a foreign tax credit in Portugal.

Conclusion

In summary, U.S.-source income received by an individual who is tax resident in Portugal is, as a general rule, subject to Portuguese personal income tax under the Portuguese Personal Income Tax Code and the Portugal–U.S. Double Taxation Convention. However, where the beneficiary is a U.S. citizen, the Protocol to the Convention introduces a material exception, allowing the United States to tax such income on the basis of nationality, which may significantly alter the mechanism for relieving double taxation.

Given the complexity of the rules and their practical impact on both taxation and reporting, a case-by-case review is recommended, taking into account the specific nature of the income, how it has been taxed in the United States, and the correct application of both treaty provisions and domestic legislation.

For any inquiries or support, our team can guide you through the whole moving process. Feel free to reach out to us at **info@afm.tax** or visit **www.afm.tax**.

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