

# **CAPITAL GAIN TAX ON FINANCIAL ASSETS**

## **ALL FINANCE MATTERS**

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## **Capital Gain Tax on financial assets: what will change in 2023?**

There are new rules applicable to the taxation of capital gains on financial assets, which will become effective in 2023.

### **What are the main changes?**

The Portuguese State Budget for 2022, approved in the end of June includes an amendment to the Personal Income Tax Code (IRS) which will have an impact on the capital gains from financial assets, when the assets in question are held for a period of less than 365 days and the taxable person reaches an income taxable amount equal to or greater than the value of the last tax bracket, which currently is of 75,009 euros.

Currently when you make capital gains from financial assets, you may choose to aggregate this income to your overall income and be taxed at the progressive tax rates (which range from 14% to 48%) or be taxed at the autonomous rate of 28%. From 2023 onwards, if the assets are held for less than 365 days, the aggregation is mandatory.

### **Is this change applicable to everyone?**

No, firstly this is only applicable to tax residents who have an overall income (including all sources of income) greater than c and when the financial assets were held for less than 365 days. If you are not tax resident or if you are, but your overall income is lower than 75,009 euros, then the rule will not affect you.

### **Are all the financial assets included in this new law?**

Regarding the capital gains arising from the redemption of units from investment funds, this new rule is not applicable and these can still be taxed at the autonomous rate of 28%. However, in relation to the income from the redemption of units of investment funds located outside the national territory, if the income from the redemption of units in investment funds foreign investments are not paid through entities with head office, effective management or permanent establishment in Portugal, such income, being qualified as capital gains under the terms provided for in the IRS Code, are likely to fall within the scope of application of the new rule and be subject to mandatory aggregation, once the other legal requirements have been verified.

## **When does this law come into effect?**

Since the State Budget Law for 2022 did not establish any transitional rule, the (new) approved capital gains taxation regime can only be applied to the disposals of shares, securities, and other financial assets, that took place after 2023, since the relevant fact in the taxation of capital gains, for the determination of the applicable law, is the moment of disposal, that is, the moment when the transaction takes place.

This means that when you fill the Personal Income Tax Return (IRS) for 2023, which is submitted in 2024, this alteration will already be in place.

## **How much more tax can this represent?**

Currently if your income is more than 75,009 euros and you own capital assets that are held for less than 365 days, you would pay 2.800€ of tax for each 10.000€ of gains. In the future the same gain will mean 4.800€ of tax.

## **If I am Non-Habitual Resident, will I also pay this tax?**

This law is applicable to all residents and there is no special provision for those with the NHR status.

What happens to the tax I paid in the country of source, will I pay the same tax in Portugal again?

Like any other resident if the CGT is made in another country where you were also taxed, depending on the Double Tax Agreement with Portugal, you may be able to deduct the tax paid in the country of source. But please note that is in case of aggregation only.

## **Are there any ways of mitigating the tax to be paid?**

If the market value of your shares at the end of the year is lower than the actual purchase price, you should consider the possibility of selling those shares before December 31st and then re-purchase them. The reason for this is that in case of realised losses, on the sale of shares, you can carry forward this loss for 5 years.

Also, in case you are considering becoming tax resident in Portugal and have substantial capital gains, you should consider selling those financial assets, prior to becoming tax resident in Portugal.





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