

# **TAXATION OF GERMAN PENSIONERS WITH NHR STATUS IN PORTUGAL: WHAT YOU NEED TO KNOW**

## **ALL FINANCE MATTERS**

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On 3 September 2025 (case no. X R 1/24), the German Federal Fiscal Court issued a landmark ruling on the taxation of German pensioners who have relocated to Portugal and benefit from the Non-Habitual Resident (NHR) regime.

This decision is particularly relevant for retirees, entrepreneurs and professionals who rely on occupational pension schemes or German insurance products during retirement.

The ruling provides important clarification for German citizens living in Portugal. Germany retains the right to tax pension income when such income is exempt from taxation in Portugal under the NHR regime.

This conclusion is based on Article 22(1), sentence 2, of the Double Taxation Agreement (DTA) between Germany and Portugal, which allows Germany to exercise taxing rights when income is not effectively taxed in the country of residence.

### **Legal Background and Key Findings**

Under the DTA's fallback clause, pension income that is exempt in Portugal under the NHR regime is regarded as non-taxation rather than taxation at a zero rate. As a result, Germany's taxing rights are activated.

The Court confirmed that occupational pensions qualify as recurring income under German tax law and are not treated as employment income or freelance earnings.

From a compliance perspective, this means that even where Portugal grants an exemption, Germany may impose limited tax liability on the pension income.

This decision aligns with established international treaty principles and confirms that a tax exemption in one jurisdiction does not automatically result in full exemption at an international level.

### **Practical Implications for German Retirees in Portugal**

Pension income remains taxable in Germany if it is not subject to tax in Portugal under the NHR regime.

Under the revised NHR framework introduced in 2020, Portugal applies a 10 percent tax rate to foreign pension income for individuals who applied for NHR status from 1 April 2020 onwards, while those who obtained NHR status before

that date may continue to benefit from a full exemption for the remaining duration of their ten-year NHR period.

Accurate documentation and reporting are essential. Retirees must be able to demonstrate their tax position clearly in order to avoid compliance risks or unexpected assessments.

This ruling highlights the importance of proactive and informed tax planning. Without appropriate structuring, German pensioners may face unforeseen tax liabilities despite residing abroad.

It is also important to note that the NHR regime is no longer available for new applications. Individuals relocating to Portugal today can no longer apply for NHR status. Instead, Portugal has introduced alternative incentive regimes, such as the Tax Incentive for Scientific Research and Innovation (TISRI), also referred to as the IFICI regime. This regime is strictly aimed at qualifying employment and professional activity and is not available to pensioners. Furthermore, taxpayers who have already benefited from the NHR regime are not eligible to apply for the IFICI regime, as these are distinct and mutually exclusive tax frameworks.

### **The Importance of Professional Tax Advice**

International taxation is complex and subject to frequent legislative and judicial developments. This ruling illustrates how changes in interpretation can have a direct financial impact on retirees, businesses and financial institutions.


At AFM we support German citizens who have chosen Portugal as their retirement destination. Our services include:

- Analysis of pension income under both German and Portuguese tax law
- Strategic planning to mitigate double taxation risks
- Support with compliance obligations, documentation and interaction with tax authorities
- Digital solutions to streamline accounting and tax processes

### **Next Steps:**

If you are a German pensioner living in Portugal under the NHR regime, or considering relocating, now is the time to review your tax position. Proper planning can help prevent unexpected tax exposure and ensure long-term compliance.





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