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HOME, HOLIDAY RENTAL OR BUSINESS?

WHY IT MATTERS WHEN YOU SELL

ALL FINANCE MATTERS

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Selling property in Portugal is not simply a question of subtracting the purchase price from the selling price and paying tax on the difference.

The final tax bill can depend on whether you are resident or non-resident, whether the property is your main home, whether you have rented part of it, operated an Alojamento Local (AL), worked from home or formally allocated part of the property to a business.

And what you do with the proceeds can be equally important.

Here are eleven things you should consider **before** selling.

1. How is the capital gain normally calculated?

In simple terms, the capital gain is the difference between the sale value and the acquisition value, after any applicable adjustments and deductions.

Qualifying expenses can reduce the taxable gain. These may include acquisition costs and taxes, estate agent commission and eligible improvement works carried out in the 12 years before the sale.

For a privately held Portuguese property, generally only 50% of the resulting real-estate gain is included in the personal income tax (IRS) calculation. This is not a 50% tax rate: it means that only half of the qualifying gain is taken into account when calculating the tax due.

An inflation adjustment coefficient may also apply to the acquisition value, increasing the amount used in the calculation and reducing the gain. The applicable coefficient depends on the year of acquisition.

2. What if I am non-resident when I sell?

This is particularly important for owners of Portuguese property who are not tax resident in Portugal. Historically, residents and non-residents were taxed very differently on Portuguese property gains. That has changed.

Under the current rules, the general 50% inclusion rule also applies to qualifying property gains, rather than being reserved only for Portuguese residents.

For non-residents, however, other worldwide income may need to be disclosed

to determine the applicable Portuguese progressive rate. This does not mean Portugal taxes that foreign income, it is disclosed only to determine your tax rate.

Therefore, changing residence before selling does not automatically provide the tax advantage that many property owners imagine.

3. Is my tax treatment different if it is my main home?

Potentially, very different.

If the property qualifies as your main and permanent residence (HPP), you may be able to exclude some or all the capital gain by reinvesting the qualifying proceeds.

Under the current rules, the property being sold generally needs to have been your main residence, evidenced through your tax domicile, during the 12 months before the sale, subject to limited exceptions.

But simply living in the house does not necessarily answer every question if it has simultaneously been used for another purpose.

4. What if I work from home?

Working from home can have implications when you sell.

Imagine that you live permanently in your Algarve villa but also use part of it for your professional activity. You might be self-employed and have registered your business at your home address, or your company might rent an office within the property.

Where part of the property is used for professional or business purposes, rather than exclusively as your main and permanent residence, the Portuguese Tax Authority is likely to refuse HPP reinvestment relief. Living in the property does not, on its own, guarantee eligibility, even if the area used for business is small.

The distinction is important: calculating the taxable gain and qualifying for reinvestment relief are separate matters. In this mixed-use situation, you should not assume that buying another main home will exempt the gain.

5. What if I rent part of my home?

Renting out part of your home can raise the same issue.

For example, if you rent out a garage that forms part of your home and is not separately registered for property tax purposes, the Portuguese Tax Authority is likely to refuse reinvestment relief because the property was not used exclusively as your main residence during the 12 months before the sale. In these mixed-use cases, a possible solution is to end the business use or rental arrangement and restore the property's exclusive use as your main residence for at least 12 months before selling. The relevant conditions should be checked before relying on this approach.

6. What if I use my home for Alojamento Local?

Registering your property as an AL can effectively move it from your personal asset into your business assets, a distinction owners often overlook. This can significantly change how the capital gain is taxed when you sell.

For a business property, 95% of the gain is taxable, rather than the usual 50%. Expenses and the inflation adjustment coefficient are generally unavailable to reduce the gain.

The Portuguese Tax Authority treats a property as a business asset if it was used or registered as an AL within the 36 months before the sale. Before putting it on the market, check when its business use began and ended, how the gain will be taxed and what proportion will be taxable.

7. Why do people talk about 50% versus 95% of the gain?

Because this can produce a dramatically different tax result.

A qualifying privately held property generally benefits from the 50% inclusion rule.

A property caught by the business/AL rules can receive different treatment.

This becomes particularly important where a property was formally allocated to an AL activity and subsequently returned to the owner's private assets. Por-

tugal has specific rules governing how the eventual gain is treated, so simply cancelling the AL immediately before the sale does not necessarily restore the normal private-property treatment.

The timing of the sale after the property leaves the business sphere can therefore be extremely important.

8. Is selling an AL property different for a resident and a non-resident?

Yes, and this is often overlooked.

Where the relevant gain is taxed under the business or Category B rules, the seller's residence status can materially change the final calculation.

For a Portuguese tax resident, it means that 95% of the gain will be taxed at the progressive rates, while for a non-resident, Portuguese-source income attributable to a Portuguese permanent establishment is subject to a 25% autonomous rate. Consequently, where 95% of the gain is taxable under the applicable business rules, the effective outcome can be very different:

Resident: 95% of the relevant gain taxed under the applicable progressive rates.

Non-resident: 95% of the relevant gain can effectively be subject to the 25% rate rather than the resident's progressive PIT rates.

This can create a surprising situation where two people sell similar AL properties for exactly the same price but face very different final tax bills because one is resident and the other is non-resident.

The precise AL history, business allocation and residence status should therefore be reviewed before assuming which treatment applies.

9. Can I avoid the capital gain by buying another main home?

Potentially, yes. The traditional reinvestment relief allows qualifying proceeds from the sale of your HPP to be reinvested into another main and permanent residence.

The reinvestment can generally take place during the 24 months before or 36

months after the sale.

And reinvestment doesn't always have to be total. If you reinvest only part of the qualifying proceeds, a proportional capital-gains exemption may be available.

This makes it important to run the numbers before deciding how much to reinvest.

10. Can I reinvest in a rental property?

A new temporary regime allows qualifying proceeds from the sale of any residential property to be reinvested in Portuguese residential property for qualifying rental.

Conditions include a deadline to start renting and a minimum rental period. The monthly rent ceiling is €2,300, with qualifying rental income taxed at 10%.

This may reduce capital gains tax when selling a second home or your main residence, including if you plan to leave Portugal. It may also suit those selling their main home to buy several properties: one to live in and others to rent out.
11. I'm over 65. Do I have to buy another property at all?

Not necessarily. If you are selling your main residency and you or your spouse or partner are retired or at least 65 when the HPP is sold, there is another interesting reinvestment alternative.

Instead of buying another property, qualifying proceeds can potentially be invested into certain long-term financial products, including a life-insurance financial contract, individual open pension fund, Portuguese public capitalisation regime or Pan-European Personal Pension Product.

This investment needs to be made within six months of the sale and can also be combined with the reinvestment in real estate mentioned above.

Before you sell

The most important lesson is simple: don't wait until after the sale to ask how the capital gain will be taxed. The best time for capital gains planning is before the property is sold. A relatively small difference in how the property was used,

how it was allocated for tax purposes, your residence status or what you do with the proceeds can make a substantial difference to the final tax bill.

Every situation is different and should be reviewed individually before completing a property sale.



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."