



Non-habitual tax residents - new procedures

An Instruction from the Portuguese Tax Authorities was recently published, determining an alteration to the procedures for recognition of the exercise of a high value-added activity by a non-habitual tax resident.

Until the publication of this Instruction, the non-habitual tax residents, when applying for this regime, were required to provide the Portuguese Tax Authorities with a set of documents to prove that they carry out an activity deemed as high value-added activity according to the applicable Government Ruling.

However, this prior recognition procedure was “excessively lengthy” – as recognized by the Portuguese Tax Authorities – and for which the non-habitual tax resident did not have clear guidelines on how to handle it, resulting on an unfair – an even unjustified – obstacle to the application of this tax regime.

In this context, the Portuguese Tax Authorities, aware of these difficulties, determined the withdrawal of the prior recognition procedure, the recognition now taking place afterwards (with the submission of the annual tax return or whenever requested by the services of the Portuguese Tax Authorities).

Thus, this regime will apply if and when the respective requirements are met, resulting its enforcement directly from the law, no prior act of recognition being required by the Portuguese Tax Authorities.

Additionally, the Portuguese Tax Authorities have identified some of the documents that the non-habitual tax residents must hold to prove that they engage in high value-added activities.

Although there is no temporal application rule in this Instruction, another Instruction was subsequently issued, confirming that this new procedure applies to all non-habitual tax residents, particularly those who are still waiting for a decision from the Portuguese Tax Authorities. In fact, all pending prior recognition procedures will be filed for supervening uselessness, allowing the non-habitual tax residents to correct – if applicable – the annual tax returns already submitted without the application of the rules arising from this regime.

Contacts

António Brochado Teixeira - antonio.teixeira@pbbbr.pt

Sandra Nunes - sandra.nunes@pbbbr.pt

www.pbbbr.pt

