

## NON-RESIDENTS TAX OBLIGATIONS

### ATTRIBUTION OF A TAX IDENTIFICATION NUMBER

The Tax Identification Number, also known as NIF (“número de identificação fiscal”) is a “sequential number, not significant, for exclusive use in the treatment of tax matters”.

The Tax Identification Number integrates the so called record of the taxpayer and comprises all individuals, companies, any other legal entity and independent properties, even if they are holders of tax exempt income.

Reference to the Tax Identification Number is mandatory, both for to individuals, companies and equivalent entities, in all the requisitions, petitions, expositions, reclamations, impeachments, claims, declarations, appeals, notifications, remittance forms of incomes to the State coffers, rolls, notes and any other documents to be presented in the Portuguese public administrative services.

In fact, **it is not possible to perform any legally binding act in Portugal if the involved parties do not hold a Tax Identification Number**, for instance it is not possible to open a bank account, buy a property or a share in the capital of a company, if not holding a Tax Identification Number.

**The request of a Tax Identification Number can be done either by the subject or by an attorney, who personally assumes the responsibility for the accuracy of the data transmitted to the tax services.**

### TAX REPRESENTATIVE

For tax purposes, taxable persons living abroad must appoint a tax representative with permanent residence in the Portuguese territory who will assume all tax obligations inherent to the taxable person.

The fulfilment of all those obligations can however either be limited to the accessory obligations as in the case of IRS (Personal Income Tax) and IRC (Corporate Income Tax), or extended to total fulfilment of the tax as in the case of VAT.

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## Income Taxation: IRS and IRC

For IRS purposes, a tax representative must be appointed at the moment of obtaining the Tax Identification Number, and it must refer in particular the representative's acceptance.

The IRC Code stipulates that the appointment must be done in the Declaration of Commencement of Activity of the taxpayer or in further alterations, where it should be referred in particular the representative's acceptance. There is no obligation of appointing a tax representative for income taxation if non-resident taxpayers obtain, in Portuguese territory, incomes which are only subjected to withholding tax on a definitive basis (the case of a flat rate).

## Value Added Tax: VAT

The representative's responsibility for VAT is different from what occurs in other taxes. For VAT purposes, the tax representative only has to be appointed in the cases in which the non-residents do not have a head office, permanent establishment or residence in another Member State of the EU. On the contrary, i.e. if the entity already has a head office, a permanent establishment or residence in another Member-State of the EU it will not necessarily need to appoint a tax representative.

### **However the nomination of a tax representative may be an advantage because:**

- ⊙ The address pertaining tax matters in the country is that of the representative;
- ⊙ The Tax Authorities' notifications will be sent directly to the representative, allowing meeting deadlines;
- ⊙ The documentation is signed and treated by the representative without requiring the presence of the client;
- ⊙ Paying taxes on behalf of the client;
- ⊙ Free the client from administrative obligations;

In the particular case of non-residents without head office, permanent establishment or residence in another Member-State of the EU that undertake taxable operations in the Portuguese territory, it is necessary to appoint a tax representative, a taxpayer subject of VAT in Portugal, with extensive powers of representation.

The appointment of a tax representative has to be notified to the contracting part before undertaking any transaction.

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The appointed tax representative must fulfil all obligations inherent to the application of the VAT Code, including the one of registration and became debtor of the tax due for the operations undertaken by the one who is represented.

**a) Registration**

- ⦿ The tax representative must request a registration number for the represented entity it is representing at the National Registry of Collective Entities (“Registo Nacional de Pessoas Colectivas”)
- ⦿ After obtaining a registration number, the presentation of a Declaration of Commencement of Activity before the Local Tax Office of his/her representation area, is also required, along with the power of attorney referring the complete identification of the representative.

**Note that the VAT Code foresees that in the absence of a tax representative, in some of the transactions, the respective obligations must be met by the national buyer, whenever he is a taxable person.**

**b) Tax filling obligations**

- ⦿ Presenting a Declaration of Commencement, Alteration or Termination of Activity.
- ⦿ Presenting a Periodical Tax Declaration concerning operations made in Portugal, as well as the respective settled tax and deductible tax.
- ⦿ Those Declarations must be presented with the complete identification of the represented person, without prejudice of the declaration being signed by the tax representative on the grounds of its powers.
- ⦿ Presenting an Annual Tax Statement concerning the operations undertaken in the respective activity during the previous tax year.

**c) Payment obligation**

- ⦿ The tax due to the operations undertaken in Portugal must be paid, without prejudice of the right of deduction of the same tax mentioned in the receipt for the payment of VAT, which is part of the invoices concerning the acquisitions made in Portuguese territory, if all the requisites predicted by the VAT Code had been abided for.

**d) Invoice Obligation**

- ⦿ To issue an invoice or equivalent document for each transmission of goods or services provided and it must be processed in name of the represented person, mentioning the tax representation.

**e) Book-keeping, filing and maintenance obligation**

- ⦿ To have an organized accounting system able to establish tax amounts and to allow tax inspections.

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