

STAMP DUTY

Stamp Duty (SD) is the oldest tax of the Portuguese Taxation system and is levied on any acts: contracts, documents, titles, books, papers and other facts comprised in Stamp Duty General Chart (annex of the Stamp Duty Code). Please note that transactions subject to value added tax (VAT) and not exempt from it, are not subject to SD.

The following entities are legally obliged to proceed with the payment of SD Taxes:

- ⊙ companies;
- ⊙ individual persons undertaking commercial, industrial or agricultural activities;
- ⊙ or public entities to whom documents are presented.

SD is a responsibility of entities with economic interests in the acts subject to this tax. In case of a common economic interest to various entities the tax charge will be proportionally divided among them.

Rates

The applicable rate, which varies according with the taxable act and/or the amount involved, is included in the General Chart of SD, in force at the moment when the tax is due, without accumulation of taxes in the same act or document. When more than one rate is foreseen for the same taxable event, the highest rate will be applicable.

SD and insurances

SD is an indirect tax focusing among other things on the operations of private insurance undertaken by insurance entities operating in Portugal under the system of free provision of services as well as operations considered as undertaken in the Portuguese territory (State of the risk or of the commitment).

The following are SD taxpayers:

- ⊙ insurance companies on the whole amount of the insurance premium, the insurance policy cost and any other amount, charged both jointly with that premium or under a separate document, as well as the net commissions paid to mediators;
- ⊙ branches of insurance companies established in Non-Member States of the EU;
- ⊙ branches of insurance companies established in other Member States of the EU acting in Portugal under the system of right of establishment;
- ⊙ insurance entities acting in Portugal under the system of free provision of services;

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- ⊙ representatives who are compulsorily appointed in Portugal by the insurance entities issuers of insurance policies made in the territory of other Member State of the EU or outside EU territory, but pertaining risks in the Portuguese territory.

Usually the SD falls over all facts that take place in Portuguese territory which are specified by the Code. Insurances made in other Member States of the EU, pertaining to risks occurred in the Portuguese territory are also subject to tax, however insurances made in Portugal but covering risks occurred in other Member State of the EU are not taxable.

The insured entities/taxable entities obligations are the following:

- ⊙ Foreign insurance entities that work under the system of free provision of services, have to appoint a tax representative in Portugal – who must be a taxable person or taxable entity - and will assume the role of a substitute for tax purposes. In these cases, Portuguese law stipulates a joint responsibility concerning the payment of taxes by professionals established in Portugal that contracted insurances, subject to SD, with foreign entities established in the EU operating in a system of free provision of services and not subject to tax repercussion.
- ⊙ To fulfill the SD mandatory tax obligations, i.e. presenting:
 - ✓ Tax Return which include self-assessment of the amount of the corresponding tributary debt (Statement Model 1) – this should be paid to the Portuguese Treasury and Government Debt Agency (IGTCP).
 - ✓ Annual Tax Statement: tax summary (Annex Q)

Please note that the following shall be exempted from Stamp Duty:

- ⊙ Premiums received for reinsurance taken from enterprises legally operating in Portugal;
- ⊙ “Life insurance” premiums and commissions.

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