

## **Note on the tax regime regarding the Portuguese Treasury Bonds and Treasury Bills held by non-residents**

- 1 - By virtue of the Decree-Law number 193/2005 of November 7<sup>th</sup>, as amended by the Decree-Law number 25/2006 of February 8<sup>th</sup>, interest paid (and redemption) on the OT (Portuguese Treasury Bonds) and BT (Portuguese Treasury Bills) to holders non-resident in Portugal, not acting through a permanent establishment in Portugal, other than residents of jurisdictions regarded as tax havens for Portuguese tax purposes, as well as capital gains acquired through the sale or other disposition of the OT or BT, are exempt from taxation in Portugal, and therefore no Portuguese income tax shall be levied, whether by withholding or otherwise.
- 2 - The exclusion respecting holders that are resident in "tax havens" does not apply when the holder is a central bank or a government agency.
- 3 - In order to apply for the above-mentioned exemption, some documents shall be provided to the clearance systems responsible for cash payments relative to OT and BT.

Documentation requirements are the same as those currently applicable to government debt securities. Thus:

### **A) – In the case of:**

- a) – Central banks<sup>1</sup>
- b) – Public law institutions
- c) – International bodies
- d) – Credit institutions
- e) – Finance companies
- f) – Pension funds
- g) – Insurance companies,

Domiciled in countries of OECD or in countries with which Portugal has celebrated any convention to avoid double international taxation, documents required are as follows:

- i – The correspondent taxpayer identification, or
- ii – A certificate issued by the entity responsible for the registration or supervision confirming the existence in law of the holder of OT/BT and corresponding domicile or, in the case of central banks, international bodies or public law institutions<sup>2</sup>,
- iii – A declaration by the holder of the OT/BT duly signed and certified.

### **B) – In the case of:**

- a) – Property investment funds
- b) – Real property investment funds
- c) – Other bodies of collective investment,

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<sup>1</sup> The proof of the quality of non-resident in the case of central banks or government agencies shall be done only once.

<sup>2</sup> Either institutions belonging to the central or regional public administration or to the other peripheral administration, or institutions belonging to the indirect or autonomous government administration of the country in which the holder is domiciled.

Domiciled in countries of OECD or in countries with which Portugal has celebrated any convention to avoid double international taxation, the documents required are as follows:

- Declaration issued by the entity responsible for the registration, or by the entity responsible for the supervision, or by the tax authority, certifying (i) the existence in law of the fund/body, (ii) the law which governed its incorporation and (iii) the local of the correspondent domicile.

**C)** – In the case of OT and BT registered in an account with an entity managing an international clearing system which binds itself, in what concerns such securities, not to provide registration services to residents for tax purposes in Portugal<sup>3</sup> and to non-residents not exempt from Portuguese withholding tax, documents required are as follows:

- Yearly issued certificate stating (i) the name of the beneficial owner, (ii) address, (iii) taxpayer identification number, (iv) identification and amount of the securities held and (v) justification of the tax exemption, or
- Yearly declaration stating that the beneficial owners are exempt from withholding tax.

In this case, a list shall be issued at each coupon date stating (i) the names of the beneficial owners, (ii) their address, (iii) the taxpayer identification numbers, (iv) the justification of the tax exemptions and (v) the identification and amount of the securities held.

**D)** – In the case of beneficial owners not covered by the above-mentioned situations, documents required are as follows<sup>4</sup>:

- i – Certificate of residence, or
- ii – Equivalent document issued by the tax authorities, or
- iii – Document issued by a Portuguese consulate confirming residence abroad, or
- iv – Document specifically issued by an official public entity to certify the beneficial owner's residence.

Such documents shall be presented in their original version or certified copy and shall be valid for three years from the date of their issue.

4 – The countries, territories and regions regarded as "tax havens" for Portuguese tax purposes are the following (Executive Order number 150/2004 of February 13th<sup>5</sup>):

1. Andorra,
2. Anguilla;
3. Antigua and Barbuda;
4. Aruba;
5. Antilles;
6. Ascension;
7. The Bahamas;
8. Bahrain;
9. Barbados;
10. Belize;
11. Bermuda;
12. Bolivia;
13. Brunei;

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<sup>3</sup> And not exempt from withholding tax.

<sup>4</sup> The entities mentioned in sections A and B shall also be able to prove their quality of non-residents through these means.

<sup>5</sup> As amended by the Declaration of Amendment number 31/2004, published in the Diário da República, I-série B, number 70, of March 23<sup>rd</sup> 2004

14. Channel Islands (Alderney, Guernsey, Jersey, Great Stark, Herm, Little Stark, Brechou, Jethou and Lihou);
15. Cayman Islands;
16. Cocos Islands;
17. Cyprus;
18. Cook Islands;
19. Costa Rica;
20. Djibouti;
21. Dominica;
22. United Arab Emirates;
23. Falkland Islands or Malvinas;
24. Fiji;
25. Gambia;
26. Grenada;
27. Gibraltar;
28. Guam;
29. Guyana;
30. Honduras;
31. Hong Kong;
32. Jamaica;
33. Jordan;
34. Qeshm Island;
35. Kiribati;
36. Kuwait;
37. Labuan;
38. Lebanon;
39. Liberia;
40. Liechtenstein;
41. Luxembourg, only as regards holding companies in the sense of the Luxembourg legislation, which is governed by the Law of July 31st, 1929 and by the Decision of the Duke of December 17th, 1938 ;
42. The Maldives;
43. Isle of Man;
44. Northern mariana Islands;
45. Marshall Islands;
46. Mauritius;
47. Monaco;
48. Montserrat;
49. Nauru;
50. Christmas Island;
51. Niue;
52. Norfolk Island;
53. Oman;
54. Pacific Islands (not included in the remaining numbers);
55. Palau Islands;
56. Panama;
57. Pitcairn Island ;
58. French Polynesia ;
59. Puerto Rico;
60. Qatar;
61. Solomon Islands;
62. American Samoa;
63. Western Samoa;
64. St. Helena;
65. St. Lucia;
66. St. Kitts and Nevis
67. San Marino;
68. St. Pierre and Miquelon;

69. St. Vincent and Grenadines;
70. Seychelles
71. Swaziland;
72. Svalbard Islands (Spitsbergen archipelago and Bjornoya Island);
73. Tokelau Islands;
74. Tonga;
75. Trinidad and Tobago;
76. Tristan ad Cunha;
77. Turks and Caicos Islands;
78. Tuvalu;
79. Uruguay;
80. Republic of Vanuatu;
81. British Virgin Islands;
82. Virgin Islands of the United States;
83. Yemen Republic.

**This Note has been prepared solely for reference purpose and shall not have any binding force. The prospective purchasers of OT or BT are advised to consult their own tax advisers as to Portuguese law and other tax consequences of the purchase, ownership and disposition of the OT or BT.**

18 April 2006