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COVID-19 - NEWSLETTER

TAX

12 June 2020

INTRODUCTION


In the context of the public health emergency resulting from the spread of the new Coronavirus - COVID-19 - in Portugal and the effect it has had on the market and on the day-to-day activity of economic agents, Uría Menéndez – Proença de Carvalho have prepared a newsletter that summarises all tax-related information that may be useful to our clients in this context. It covers:


- (i). **Legislative measures**: the main tax and social security contribution measures introduced by the government to mitigate the negative economic impact of COVID-19 on companies and individuals.
 - (ii). **Payment of taxes**: a summary of the taxes due in March and April and the main ways they can be paid and the consequences of not doing so.
 - (iii). **PTA services**: a list of the main services available to companies and individuals through the electronic and telephone services of the Portuguese Tax Authorities ("**PTA**") that will now take precedence over face-to-face services at local tax offices (which are now limited and should only be used in cases of absolute necessity).
 - (iv). **Links to official websites** with useful information for taxpayers.
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LEGISLATIVE MEASURES

NEW DEADLINES / FLEXIBILITY FOR COMPLIANCE WITH ANCILLARY OBLIGATIONS


CIT

 **Order 104/2020-XXII of 9 March of the Secretary of State for Tax Affairs**

 **Order 153/2020-XXII of 24 April of the Secretary of State for Tax Affairs**

- **Special CIT Advance Payment:** the deadline for payment of the first instalment of the Special CIT Advance Payment (*pagamento especial por conta*) has been extended from 30 March to 30 June 2020.
- **CIT return filing:** the deadline for submitting the CIT return (*Declaração Modelo 22*) has been extended from 31 May to 31 July 2020.
- **Obligation to submit IES/DA:** the deadline to submit the IES/DA (*Informação Empresarial Simplificada / Declaração Anual*) has changed from 15 July to 7 August 2020;
- **CIT Advance Payment¹:** the deadline for payment of the CIT Advance Payment (*pagamento por conta*) has been extended from 31 July to 31 August 2020.
- **Additional CIT Advance Payment:** the deadline for payment of the first instalment of the Additional CIT Advance Payment (*pagamento adicional por conta*) has been changed from 31 July to 31 August 2020.
- **Obligation to submit tax records and transfer pricing records:** the deadline to gather or submit the tax and transfer pricing records has been pushed back to 31 August 2020.


VAT

 **Order 129/2020-XXII of 27 March of the Secretary of State for Tax Affairs**

New VAT return filing deadlines

- **Monthly VAT return for April 2020:** may be delivered until 18 June 2020 and paid until 25 June 2020;
- **Quarterly VAT return for the first quarter of 2020:** may be delivered until 22 May 2020 and paid until 25 May 2020;

¹ A Supplementary Budget for 2020 is currently pending approval – Law Proposal no. 33/XIV/1 – under which terms some relevant changes are proposed to CIT advance payments (in order to totally or partially limit the first and second advance payments depending on effective economic activity), carry forward losses (in order to suspend the deadline to carry forward losses for 2020 and 2021, extend the deadline to carry forward losses from 5 to 10 years and limit the deduction of losses from 70% to 80% in the tax years of 2020 and 2021, amongst others) and create a solidarity charge for the banking sector.

 **Order 153/2020-XXII of 24 April of the Secretary of State for Tax Affairs**


- The filing of periodic VAT returns by these extended deadlines does not alter any payment-by-installment arrangements in place.

Greater flexibility in rules applicable to periodic VAT returns: they may now be submitted with data obtained through the e-Fatura system :

- **Scope:** Applies to the March 2020 monthly VAT return and the 2020 first-quarter return.
- **Eligibility:** taxable persons with:
 - (i) Turnover up to EUR 10 million in 2019; or
 - (ii) Commencement of activity (or restart) on or after 1 January 2020 (and therefore have no turnover in 2019).
- **Formalities**
 - (i) Regularisation of the situation by filing a replacement declaration during July 2020, based on all the required supporting documentation; and
 - (ii) No interest or penalties will apply.


PDF Invoices: during the months of April, May and June, PDF invoices will be considered electronic invoices for all purposes provided for in tax legislation.


Withholdings at the source

 **Order 153/2020-XXII of 24 of April, of the Secretary of State for Tax Affairs**

- The delivery of PIT and CIT withholding taxes for the months of April and May 2020 may be completed until May 25 and June 25, respectively.

Stamp Duty

 **Order 153/2020-XXII of 24 of April, of the Secretary of State for Tax Affairs**

 **Order 121/2020-XXII of 24 of March, of the Secretary of State for Tax Affairs**

- **Monthly Stamp Duty Return:** with respect to the obligation to settle and pay the Stamp Duty of April and May 2020, the same may be fulfilled until 25 May and 25 June respectively, without being subject to the payment of any interest or fines.
- **New Monthly Stamp Duty Return:** the requirement to file this new monthly return from April 2020 onwards has been postponed and will now apply from January 2021. Therefore, for the year 2020 there is no requirement to submit this declaration and taxpayers must continue to follow the stamp duty assessment and submission procedures which were applicable until the end of 2019.

PAYMENT OF TAXES BY INSTALMENTS

Decree-Law 10-F/2020 of 26 March

Declaration of rectification 13/2020 of 28 March


- **Taxes covered:** VAT (on a monthly and quarterly basis) and PIT and CIT withholdings, for which the deadline for payment is the second quarter of 2020;
- **Eligibility:** Taxpayers that:
 - (iii) Have a turnover of EUR 10 million or less in 2018;
 - (iv) Commenced (or restarted) their business activity as of 1 January 2019 (and therefore have no turnover in 2018).
 - (v) Operate in one of the sectors forced to close as a result of the declaration of the State of Emergency pursuant to article 7 of Decree 2-A/2020 of 20 March 2020²; or
 - (vi) Register an average decline in the invoicing reported through the E-fatura service of at least 20% in the last three months before the relevant month of payment, in relation to the same period for last year³.
- **Payment options:**
 - (i) Immediate payment;
 - (ii) Payment in three or six monthly instalments without interest, with the first instalment being due at the relevant date of payment and the following instalments due on the same date in the following months.
- **Formalities⁴**
 - (i) Waiver of guarantee;
 - (ii) Payment by instalments to be requested electronically until deadline for voluntary payment elapses.

² And which include the following sectors: (i) recreational, leisure and entertainment activities; (ii) cultural and artistic activities; (iii) sports activities (except those intended for the activity of high-performance athletes); (iv) activities in open spaces, public roads and private roads equivalent to public roads (e.g., bicycle paths, parades, popular festivals, etc.); (v) games and betting spaces; (vi) catering and restaurant activities; and (vii) spas.

³ When the invoices reported through the E-Fatura service do not reflect all the transactions carried out subject to VAT relating to the transmission of goods and the rendering of services for the relevant periods, including the ones that are exempt, the decline in invoicing will be assessed based on the turnover as provided for by article 143 of the CIT Code. In any event, the decline in invoicing / turnover should be demonstrated by an auditor (“Revisor Oficial de Contas”) or chartered accountant.

⁴ In what is not specially regulated, Decree-Law 492/88, of 30 December, in its current wording, should be applicable.

PAYMENT OF SOCIAL SECURITY CONTRIBUTIONS BY INSTALMENTS

 **Decree-Law 10-F/2020 of 26 March**

 **Declaration of rectification 13/2020 of 28 March**

- **Contributions covered:** only the contributions that are the responsibility of the employer are covered (contributions due by the employee are excluded and should be paid on time):
 - (i) Contributions due in March, April and May 2020;
 - (ii) Contributions due in April, May and June 2020, in relation to (a) employers that have already paid all contributions due in March 2020 and (b) self-employed individuals;
- **Eligibility⁵:**
 - (i) Self-employed individuals;
 - (ii) Companies with up to 50 employees;
 - (iii) Companies with a total number of employees between 50 and 249, provided that they register a decline of at least 20% in the invoicing reported through the E-Fatura service in March, April and May 2020 in relation to the same period for last year or, if they commenced activity less than 12 months ago, the average decline in invoicing for the period of activity that has elapsed; and
 - (iv) Companies with 250 employees or more, provided that they register a decline of at least 20% in the invoicing reported through the E-Fatura service in March, April and May 2020 in relation to the same period for last year or, if they commenced activity less than 12 months ago, the average decline in invoicing for the period of activity that has elapsed⁶; and:
 - Are private charitable institutions or similar; or
 - Have a business activity within the sectors closed due to the declaration of the State of Emergency⁷ or in the aviation and tourism sectors, regarding the facilities or the company actually closed; or
 - Have their activity suspended by legislative or administrative order⁸, regarding the facilities or the company actually closed.

⁵ The number of employees is measured by reference to the remuneration statement for the month of February 2020. The fulfilment of the necessary eligibility requirements for the deferral of contributions must be demonstrated in July 2020 by the chartered accountant.

⁶ See footnote no. 2.

⁷ See footnote no. 1.

⁸ Under the terms of Decree-Law 10-A/2020 of 13 March, the Framework Law on Civil Protection, approved by Law 27/2006 of 3 July (*Lei de Bases da Proteção Civil*); or the Framework Law on Health, approved by Law 95/2019 of 4 September (*Lei de Bases da Saúde*).

- **Payment options:**
 - (i) Immediate payment in full; or
 - (ii) Payment of one third of the contributions in the month in which they are due; and
 - (iii) Payment of the remaining two thirds without interest (a) in three instalments in the third quarter of 2020, or (b) in six instalments in the second semester of 2020 (in the months from July to December 2020).

- **Formalities**
 - (i) Automatically applied to the payment of one third of the contributions;
 - (ii) In July 2020, employers must indicate the payment method selected through *Segurança Social Direta*;
 - (iii) All instalments will become due and the interest exemption will no longer be applicable in the event of a failure to pay one-third of the contributions in the months in which they are due.

SUSPENSION OF DEADLINES AND RULES APPLICABLE TO TAX PROCEDURES AND PROCEEDINGS

Law 1-A/2020 of 19 March

Law 4-A/2020 of 6 April

On 9 March a framework of exceptional measures was put in place within the scope of the plan to prevent, contain, mitigate and address the COVID-19 pandemic and according to which terms the following deadlines (amongst others) were suspended:

- **Deadlines in relation to proceedings and formalities** in the following courts and public bodies (with the exception of those necessary to address COVID-19):
 - (i) Judicial courts
 - (ii) Administrative and tax tribunals and arbitration courts
 - (iii) The Constitutional Court, Court of Auditors (*Tribunal de Contas*) and remaining courts
 - (iv) Public Prosecutor's office
 - (v) Justice of the peace proceedings (*Julgados de Paz*) and acts of alternative dispute resolution entities
 - (vi) Procedures with notaries and registry offices
 - (vii) Tx enforcement entities
 - (viii) Notary and registry offices
 - (ix) Services and entities forming part of the state's direct, indirect, regional and local authorities and other administrative entities, including independent administrative entities such as the Bank of Portugal and the Portuguese Securities Market Commission (*Comissão de Mercado de Valores Mobiliários*), the Portuguese Competition Authority (*Autoridade da Concorrência*), the Portuguese Insurance and Pension Funds Supervisory Authority (*Autoridade de Supervisão de Seguros e Fundos de Pensões*) and all public professional associations (*associações públicas profissionais*) in relation to administrative breaches, sanctions and disciplinary proceedings and related acts and procedures (including judicial claims against final or interlocutory decisions).
- **Statute of limitations and prescription deadlines** for all proceedings and procedures.


All deadlines applicable to taxpayers in relation to administrative and tax proceedings, where they relate to the filing of judicial claims (*impugnação judicial*), administrative claims (*reclamação graciosa*), administrative appeals (*recurso hierárquico*) or other similar procedures and all acts performed within the scope of these tax proceedings.

Law 16/2020 of 29 May

This exceptional deadline suspension framework applicable as of 9 March has been revoked, resulting in deadlines being resumed as follows:

- **Suspended deadlines for judicial and arbitration proceedings** resumed on 3 June 2020.

 **Decree-Law 10-F/2020 of 26 March**

 **Rectification declaration 13/2020 of 28 March**

– **Administrative and tax deadlines in favour of the taxpayer and statute of limitations and prescription deadlines**


- (i) Administrative deadlines which would have fallen during the suspension or within 20 working days after the entry into force of Law 16/2020 of 29 May are considered to expire on the 20th working day after the entry into force of the said Law (i.e. 3 July 2020).
- (ii) Administrative deadlines which would have fallen more than 20 working days after the entry into force of Law 16/2020 of 29 May (i.e. after 3 July 2020) will expire as per their original term.
- (iii) Deadlines for administrative offences resumed on 3 June.
- (iv) Suspended statute of limitations and prescription periods resumed on 3 June and have been extended by the period of time during which they were suspended (i.e., 86 days).

Tax enforcement proceedings

- Suspension of tax enforcement proceedings in progress or to be initiated by the PTA or by the SS at least until 30 June 2020 (if the suspension regime by application of the judicial holiday regime to the aforementioned tax enforcement bodies ceases on an earlier date);
- Suspension of the benefit plans in progress with the PTA and the SS, by application of the judicial vacation regime, without prejudice of this plan being able to continue to be fulfilled;
- Authorization to extend the suspension beyond June 30, 2020 applicable to payments of the installment plans in progress concluded with private social solidarity institutions under cooperation agreements (to be decided by the SS).

OTHER RELEVANT LEGISLATIVE MEASURES


Justifiable reasons - reporting obligations


 **Order 129/2020-XXII of 27 March of the Secretary of State for Tax Affairs**

The following situations are considered as justifiable reasons for the failure of taxpayers and chartered accountants to fulfill tax reporting obligations.

- (i) Infection and prophylactic isolation due to COVID-19, by submitting a statement to this effect issued by a health authority; and
- (ii) Prohibition on travelling to and from their tax or business domicile due to its location being in a lockdown area.

Document Validity


 **Decree-Law 10-A/2020 of 13 March**

 **Decree-Law 22/2020 of 16 May**

Renewable documents that have expired since 9 March 2020 or within the 15 days immediately preceding this Decree-Law coming into force will continue to be accepted as valid for all legal purposes by public authorities.

The Portuguese civil identification card (*cartão de cidadão*), any extracts or certificates issued by the registration and civil identification authorities, driving licences, as well as documents and visas relating to entitlement to remain in national territory that expire on or after 9 March 2020, or within the 15 days immediately preceding 9 March, will be considered valid until 30 October 2020 (if the holder can prove that a renewal appointment has been scheduled, the documents will continue to be considered valid after 30 October 2020).

Income tax benefits / Patronage regime


 **Order 137/2020-XXII of 3 of April, of the Secretary of State for Tax Affairs**

- **Tax benefit:** donations - in cash or in kind - by resident entities and permanent establishments of non-resident entities subject to CIT and resident individuals subject to PIT, made to the Portuguese State, autonomous regions and local authorities and any of their services, establishments and bodies, or to associations of municipalities and parishes, or foundations which initial assets they totally or partially owned, may be increased and deducted from taxable income for the purposes of the donor's income tax.
- **Eligibility extension:** the SPMS - Serviços Partilhados do Ministério da Saúde, E.P.E., as well as hospitals incorporated as public corporate entities (Entidade Pública Empresarial - E.P.E.) forming part of a regional health service, may now take advantage of this tax benefit.
- **Duration of benefit:** as long as the emergency period lasts in Portugal.
- **Formalities:**
 - (i) Donated goods may be delivered to E.P.E. hospitals, but SPMS - Serviços Partilhados do Ministério da Saúde, E.P.E, and E.P.E. hospitals forming part

of a regional health service are responsible for complying with the ancillary obligations under the patronage tax regime.

- (ii) A document evidencing the value of the donation, to be issued as per article 66(1)(a) of the Tax Benefits Statute, may be exceptionally issued by a third party who processes the donations on behalf of the beneficiary, with the consent of the latter, provided that the intermediary maintains an updated record of the donors as per article 66(1)(b) of the Tax Benefits Statute and provides the beneficiary with the information necessary to fully comply with the obligations set out in article 66(1)(a) & (b) of the Tax Benefits Statute in a timely manner.

Exemption from VAT on donations

 **Order 122/2020-XXII of 24 March of the Secretary of State for Tax Affairs**

VAT Exemption on donations:

– **Transactions covered:**

- (i) Transfers of goods free of charge to (i) the State, (ii) private charitable institutions and (iii) non-governmental, non-profit organisations, to be subsequently made available to persons in need and even if these organisations retain ownership of these goods.
- (ii) People receiving health care in the context of the pandemic are considered people in need for this purpose.

– **Scope of the exemption:** total exemption with the right to deduct input VAT.

– **Duration of the exemption:** as long as the emergency period lasts in Portugal.

Relief from import duties and VAT exemption on importation granted for goods needed to combat the effects of the COVID-19

 **Commission Decision (EU) 2020/491 of 3 April 2020**


– **Imports of goods covered:**

- (i) Goods intended for one of the following uses: (a) distribution free of charge by or on behalf of State organisations including State bodies and equivalent entities referred to in the Decision to the persons affected by or at risk from COVID-19 or involved in combating the COVID-19 outbreak; or (b) being made available free of charge to the persons affected by or at risk of COVID-19 or involved in combating the COVID-19 outbreak while remaining the property of the aforementioned bodies and entities;
- (ii) Goods that satisfy the requirements laid down in Articles 75, 78, 79 and 80 of Regulation (EC) No 1186/2009 and Articles 52, 55, 56 and 57 of Directive 2009/132/EC; and
- (iii) Goods imported for release for free circulation by or on behalf of State organisations including State bodies and equivalent entities referred to in the Decision.


Or

- (iv) Goods imported for release into free circulation by or on behalf of disaster relief agencies in order to meet their needs during the period they provide

VAT exemption on the supply of goods and intra-community acquisitions of goods needed to combat the effects of COVID-19

 Law 13/2020 of 7 May

Reduced VAT rate for protection masks and skin disinfectants

 Law 13/2020 of 7 May

disaster relief to the persons affected by or at risk from COVID-19 or involved in combatting the COVID-19 outbreak;

- **Scope of the exemption:** exemption from VAT and relief from import duties.
- **Duration of the exemption:** applicable to imports made from 30 January 2020 to 31 July 2020.
- **Transactions covered:** the supply of goods and intra-community acquisition of goods needed to combat the effects of the COVID-19 outbreak during 2020 by the Portuguese State and other State bodies and non-profit entities.
- **Scope of exemption:** VAT exemption.
- **Duration of the exemption:** temporary.
- **Requirements:** invoices must reflect fulfilment of statutory grounds for this exemption.
- **Transactions covered:** imports, supply and intra-community acquisition of respiratory protection masks and skin disinfecting gel.
- **VAT rate:** reduced rate of 6%.
- **Duration:** temporary.

PAYMENT OF TAXES

TAX PAYMENT DEADLINES IN JUNE, JULY AND AUGUST

Tax Calendar

- **25 June** – VAT – monthly regime – April
- **25 June** – PIT / CIT – withholdings at source – May
- **25 June** – Stamp Duty – May
- **30 June** – CIT – special advance payment
- **15 July** – VAT - monthly regime – May
- **20 July** – PIT – advance payment
- **20 July** – PIT/CIT – withholdings at source – June
- **20 July** – Stamp Duty – June
- **31 July** – CIT – annual return and payment
- **17 August** – VAT – monthly regime – June
- **20 August** – VAT – quarterly regime – second quarter
- **20 August** – PIT/CIT – withholdings at source – July
- **20 August** – Stamp Duty – July
- **31 August** – CIT – advance payment
- **31 August** – CIT – special advance payment
- **31 August** – Property Tax (IMI) 2019

PAYMENT OF TAXES

Methods of payment

Further to the restrictions imposed on the normal operation of the PTA's local tax offices (see more details below), the methods available to pay taxes (except those taxes which payment has been suspended or deferred – see above for more details) should, in principle, be limited to the following: direct debits, transfers from account to account and postal orders (subject to the public still being able to access post offices, banks and other credit institutions).

According to the information provided by the PTA on their website Portal das Finanças: "(...) whenever possible, taxpayers should give preference to electronic means of payment, such as homebanking or MBWay (available on Portal das Finanças and on

Transfers of assets in lieu of cash payments of taxes owed

our mobile app called "Situação Fiscal – Pagamentos". We ask taxpayers not to make payments in cash or by cheque at local tax offices, whenever there are electronic alternatives for payment available".

In accordance with the *Código de Procedimento e Processo Tributário* ("CPPT"), tax debts may be settled by **transferring ownership of movable or immovable property instead** of making cash payments in the following situations:

- **Before a tax enforcement procedure is initiated**, but only in the context of a proceeding leading to a recovery agreement for state claims being finalised. A request should be filed in the local tax office corresponding to the taxpayer's domicile and addressed to the Minister of Finance, at any time from the beginning of the voluntary payment period. This request does not suspend the collection of the debt, namely through the commencement of a tax enforcement procedure.
- **After a tax enforcement procedure has been initiated**, as a general rule, within 30 days from the date the debtor is notified that a tax enforcement procedure has been initiated. A request addressed to the Minister of Finance should be filed, within the abovementioned deadline, in the local tax office where the enforcement procedure has been initiated.

In both cases, the request must contain a detailed description of the movable or immovable property being offered instead of a cash payment. Apart from a limited number of specific situations, the value of the property offered may not be greater than the amount of the debt and the associated expenses.

Up to five days after notification of the government order authorising the transfer proposed by the taxpayer, the latter may still withdraw the respective request, provided that the debt and associated expenses (including interest and the expenses incurred to value the movable and immovable property offered) are paid in full.

Offsetting tax debts and credits

In accordance with the CPPT, tax debts subject to a tax enforcement procedure may be offset against the following credits that the taxpayer holds against the state:

- **Offsetting at the initiative of the PTA**: the PTA may offset tax debts subject to a tax enforcement procedure against **tax credits** that the taxpayer holds against the state if the tax credits relate to the reimbursement of taxes or arise from any administrative or judicial measures taken to challenge any other tax debt or tax assessment (*revisão oficiosa do ato tributário, reclamação graciosa, impugnação judicial*). The PTA are not allowed to offset in the following circumstances:
 - (i) the taxpayer is still in time to file a claim challenging the legality or enforceability of the tax debt; or where
 - (ii) a final decision is pending in any of the administrative or judicial measures mentioned above (and provided that the debt has been secured).
- **Offsetting at the initiative of the taxpayer**: in those cases where the PTA is prevented from doing so, the taxpayer may request that a tax debt be offset against the following claims:

- (i) **Tax credits** relating to the reimbursement of taxes or arising from any administrative or judicial measures used to challenge any other tax debt or tax assessment (their own or a third party's, provided that the third party accepts it).
- (ii) **Credits of any kind directly administered by the state**, provided that the tax debt is already subject to a tax enforcement proceeding and that such credits are certain, due, and that the corresponding amount has already been assessed.

The taxpayer should file an application with the local tax office where the tax enforcement procedure is underway and address it to the head of the PTA, providing proof of the existence, origin, value and maturity of the claim that the taxpayer holds against the state.

The taxpayer's assignment of tax claims against the state

Although the assignment of a taxpayer's tax credits to the state is not expressly provided for by law, since 2018 taxpayers that are entitled to a tax reimbursement can request the PTA to pay the amount to be reimbursed to a third party.

PAYMENT IN INSTALMENTS

Eligibility

- The Portuguese government has introduced the abovementioned measures in relation to extending the deadlines for the payment of some taxes and for fractioned payments of VAT, and PIT and CIT withholdings.
- No special measures – other than those already mentioned - have been introduced by the Portuguese government regarding the payment of the remaining taxes due in the coming months or the payment of taxes by taxpayers who are not eligible to benefit from these measures introduced as a result of COVID-19 public health emergency in Portugal.
- Therefore, if a taxpayer faces difficulties paying taxes that become due in the next few months, in the situations not covered by the exceptional measures referred to above, the general rules applicable to payments in instalments should apply.
- Taxes may be paid in instalments whenever the taxpayer cannot pay the tax owed in full.
- Sufficient evidence of the taxpayer's difficult financial situation should be provided.
- We understand that compromised cash flows as a result of the COVID-19 health emergency should be sufficient to evidence a taxpayer's difficult financial situation

Instalments

Special rules applicable to tax withheld at source and VAT

Procedure

and therefore be accepted by the PTA for the purpose of negotiating an instalment plan.

- Partial payment agreements do not reduce the amount of taxes, interest or penalties owed.
- Late payment interest (at a rate of 4.786% for 2020) will continue to accrue to the tax debt until full payment is made.
- The payment plan should have a maximum of 36 monthly instalments of a minimum amount of EUR 102 per instalment.
- When the tax debt exceeds EUR 51,000 and provided the necessary (and exceptional) conditions are met, the above mentioned limit may be extended to (a) 150 monthly instalments, if it is shown to be necessary and there is an economic recovery plan approved in the context of insolvency proceedings or a special recovery procedure for the entity, or (b) 60 monthly instalments, if the taxpayer can demonstrate its serious financial situation and foreseeable economic consequences; in both cases, each instalment should be for a minimum amount of EUR 1,020;
- As a general rule, debts legally transferred to a third party, such as VAT charged to the acquirer and amounts withheld at source, cannot be paid in instalments.
- These taxes may in exceptional circumstances be subject to an instalment plan/benefit from an instalment plan limited to 24 instalments with a minimum amount of EUR 102 per instalment, provided that the taxpayer provides evidence of exceptional financial hardship and adverse economic consequences that would result from it having to pay the tax in a single payment.
- The payment in instalments of VAT and PIT and CIT withholdings (i.e. in instalments of up to six months and with waiving of guarantees) by the eligible taxpayers that meet the requirements has been enabled;
- For taxpayers not eligible to benefit from the above mentioned measures, we understand that a decrease in cash flows caused by the COVID-19 public health emergency should be considered evidence that the payment of tax in full would result in exceptional financial difficulties and adverse economic consequences, and therefore should be accepted by the PTA as a justification for negotiating a plan to pay the VAT and/or the withholding taxes in instalments.
- **Filing an instalment agreement request:** this request may be filed online through *Portal das Finanças – Planos Prestacionais > Simular / Registar Pedido*.
- **Acceptance of the instalment plan:** The PTA should expressly notify the taxpayer of the acceptance of the proposed instalment plan.
- **Guarantee:** a guarantee, which may consist of a bank guarantee, a bail security or any other appropriate means of security should be granted to secure the payment of the tax debt; the amount of the guarantee should be equal to the tax liability plus surcharges and late payment interest; this guarantee benefits from stamp duty exemption.

Non-compliance with instalment plan

- **Guarantee waiver:** The obligation to provide the guarantee may be waived at the taxpayer's request in the following circumstances:
 - (i) If the tax debt does not exceed EUR 10,000; or
 - (ii) If the taxpayer expressly requests the waiver and provides evidence of financial hardship and insufficient means or irremediable damage that would result from providing the guarantee. We understand that the COVID-19 health emergency should be accepted as sufficient grounds to evidence the irremediable damage that would be caused by having to provide the guarantee, and therefore the PTA should waive this requirement.
- The current instalment plans have been suspended as a result of the application of the abovementioned suspension of the deadlines (until the suspension ends), without prejudice to the voluntary compliance by the taxpayer with the instalment plan.
- The tax enforcement proceedings have also been suspended at least until 30 June 2020 (in the event that the suspension of deadlines applicable to tax enforcement entities mentioned above ceases before this date) and therefore non-compliance with the instalment plans while the suspension is in force should have no adverse consequences for the taxpayer.

CONSEQUENCES OF NON-PAYMENT OF TAXES

Tax

- **Compensatory interest:** a delay in the payment of taxes that is attributable to the taxpayer - e.g. a failure to submit periodic VAT returns or PIT or CIT tax returns or the failure to pay withholding taxes to the PTA - triggers compensatory interest at an annual rate of 4%, from the date the tax obligation should have been complied with until the tax debt is settled or the breach is regularised.
- **Late payment interest:** the non-payment of taxes that have already been assessed within the deadline for voluntary payment is subject to late payment interest at a rate of 4.786% (applicable in 2020) until full payment of the debt;
- **Tax enforcement procedures:** If a tax is not paid, the PTA may initiate a tax enforcement procedure to obtain payment of the tax, interest and surcharges.

Infringements

- **Failure to submit or delay in submitting returns required for tax assessments:** where there is negligence, it is punishable with a penalty ranging between EUR 300 and EUR 3,750 in the case of legal entities and between EUR 75 and EUR 1,875 in the case of individuals.
- **Non-payment or delay in the payment of taxes (e.g. VAT, tax withheld, payments on account, stamp duty):** where there is negligence, it is punishable

with a penalty ranging between 30% and 100% of the tax due in the case of legal entities, and between 15% and 50% of the tax due in the case of individuals (with a limit of EUR 45,000 and EUR 22,500, respectively, per return);

- This penalty will not apply if the failure to pay in the tax owed could be considered a criminal offence.
- **Tax embezzlement (*abuso de confiança fiscal*)**: (i) the failure to pay in an amount in tax (VAT, withholding taxes, stamp duty, among others) exceeding EUR 7,500, (ii) where the delay exceeds 90 days after the payment date, and (iii) if notified to this effect, the taxpayer who submitted the corresponding tax return fails to pay the total amount of tax and interest due within 30 days, may constitute a crime of tax embezzlement, punishable by imprisonment for up to 3 years in the case of individuals, or a fine of up to 360 days in the case of legal entities;
- If the amount of tax due exceeds EUR 50,000, the crime will be punishable by imprisonment for between 1 and 5 years in the case of individuals, and a fine ranging between 240 and 1,200 days in the case of legal entities;
- The fine may be set at an amount ranging between EUR 1 and EUR 500 per day for individuals and between EUR 5 and EUR 5,000 per day for legal entities.

PTA SERVICES

RECOMMENDATIONS OF THE PTA – COVID-19

WE ARE ONLINE - SEE HOW AND WHAT YOU SHOULD DO

The following recommendations on the use of PTA services / access to local tax offices have been issued:

- Priority to be given to using *Portal das Finanças* and the PTA call centre.
- Priority to be given to notifying claims and requests through *Portal das Finanças – E-balcão*.
- Taxes preferably to be paid by electronic means.
- In case of an emergency or necessity, an appointment can be made through *Portal das Finanças* or the PTA call centre. No assistance will be provided in local tax offices without an appointment.

PTA SERVICES

PORTAL DAS FINANÇAS

Services: Taxpayers can access the following services, among others, through the *Portal das Finanças*:

- Check the tax registry.
- Fulfil ancillary obligations.
- Submit tax returns for PIT, CIT, VAT, stamp duty, withholding taxes, among others.
- Assess taxes.
- Check the status of tax assessments.
- Check tax debts and tax enforcement processes and make payments in tax enforcement processes.
- Check the status of tax infraction proceedings and pay fines.
- Submit administrative claims, requests for prior hearings, binding rulings and other requests.
- Issue receipts (e.g. rent receipts, receipts for services rendered - *recibos verdes*).
- Register as a non-habitual resident.
- Check payment deadlines and pay Road Tax

- Obtain evidence and/or certificates of residence, of non-existence of tax debts and of VAT exemption waivers.
- Apply for or manage instalment plans.

Access password: A password is needed to access the *Portal das Finanças* services. One can be requested through the *Portal das Finanças* and will be sent to the taxpayer's residence within five working days.

E-BALCÃO ELECTRONIC SERVICE

Clarification can be sought on all matters by submitting any queries to the PTA through E-balcão.

PTA CALL CENTRE + 351 217 206 707

Opening hours from 9 a.m. to 7 p.m. on working days.
24/7 automated service for tax refund matters.

OTHER RELEVANT LINKS TO OFFICIAL WEBSITES

PORTUGUESE GOVERNMENT

 **PORTUGUESE GOVERNMENT**

Publishes all the initiatives of the Portuguese Government and measures announced to address the public health emergency caused by COVID-19.

 **WE DON'T STOP, WE'RE ON**

This website summarises all relevant information, measures adopted and essential contacts in the context of the Portuguese Government's response to the public health emergency caused by COVID-19.

PORTUGUESE ORDER OF CERTIFIED ACCOUNTANTS

 **COVID – TIPS & ALERTS**

Website with tips and alerts from the Portuguese Order of Certified Accountants regarding the measures adopted in the context of the public health emergency caused by COVID-19.

SOCIAL SECURITY

 **SOCIAL SECURITY**

SS website with the main updates on the measures adopted in the scope of the public health emergency caused by COVID-19

 **SS EXCEPTIONAL MEASURES**

Document summarising the main exceptional measures adopted in the scope of the public health emergency caused by COVID-19 and the instructions to access these measures

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