
Portugal | Rent update and extraordinary rent support

Law 19/2022 of October 21 establishes the rent update coefficient for 2023 and creates an extraordinary rent support measure.

Legal Flash | Real Estate and Tax Law

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Key aspects

The rental measures introduced by Law 19/2022 of October 21 include establishing:

- > the rent update coefficient for land and building leases for 2023; and
- > an extraordinary rent support tax benefit.



Law 19/2022 of October 21

Law 19/2022 of October 21 (“**Law19/2022**”) aims to establish extraordinary support measures for families and businesses in light of the current inflation context.

These measures were introduced as part of the “*Families First*” package that the government presented on September 6, 2022, which serves as a response plan to the widespread increase in prices.

> Rent update coefficient for 2023

As a rule,¹ parties to a lease agreement are free to agree on the conditions for updating the rent. If there is no provision or express agreement of the parties to this effect, the rent may be updated annually in line with the applicable update coefficients.

As established by law,² the annual rent update coefficient for the various kinds of leases (land and buildings) derives from the total variation in the consumer price index (“**CPI**”)—excluding housing—for the past 12 months and for which figures are available on August 31.

The National Statistics Institute (“**INE**”) is responsible for ascertaining this update coefficient, and the pertinent notice must be published in the Official Gazette of the Republic of Portugal (*Diário da República*) by October 30 of each year.

On August 31, 2022, the CPI for the last 12 months—excluding housing—was 5.43%.

As an exception, and to avoid a sharp increase in rents, Law 19/2022 establishes that the annual rent coefficient calculated on August 31, 2022, based on the CPI—excluding housing—for the past 12 months will not apply to land or building leases in 2023. Instead, and unless the parties stipulate otherwise, a 1.02% coefficient will apply.

In short, the 1.02% coefficient stipulated in Law 19/2022 caps rent increases at 2% and can be applied for updating the rents in land and building lease agreements entered into up to December 2022 in which there are no provisions on the rent update regime or in which the annual rent coefficient ascertained by the INE is referred to explicitly. However, the parties can still agree on a different updating regime.

¹ Cfr. See article 1077 of the Portuguese Civil Code.

² See article 24 of Law 6/2006 of February 27, which approves the New Building Lease Regime (NBLR); and article 11.5 of Decree-Law 294/2009 of October 13, which approves the New Land Lease Regime (NLLR).



> Extraordinary rent support tax benefit

The entry into force of this law establishes an extraordinary support measure relating to personal income tax (“PIT”) and corporate income tax (“CIT”) on property income from rents earned in 2023, which will be ascertained in 2024. The objective of the legislation is to compensate landlords, as it establishes a maximum rent increase ceiling of 2%, while the application of the annual coefficient determined by the INE based on the CPI (not including housing in the 12 months ending in August) would result in a 5.43% increase. Therefore, this benefit is granted to landlords for rent due and paid in 2023, and part of the respective income will be exempt from PIT and CIT.

In terms of PIT, the income from lease agreements falling within category F and that are subject to the autonomous rate of 28% or the general rates, depending on whether taxpayers decide to aggregate this income with the rest of their income, is determined by applying the 0.91% coefficient after making the legally established deductions.

In other words, instead of the respective tax rate applying to 100% of the taxable income (obtained after the usual deductions of, amongst others, condominium expenses), it will apply to 91% of the income only. Therefore, landlords will benefit from a 9% tax-free benefit on their income.

In situations where there is a reduction in the autonomous PIT rate for rental income from lease agreements after two years (a reduction that varies between 2 and 18 percentage points, depending on the term of the contract), the support coefficient varies between (i) 0.9, when an autonomous rate of 26% applies for lease agreements of two years or more and fewer than five years; and (ii) 0.7, when an autonomous rate of 10% applies for contracts with a term of 20 years or more, as well as for rental income from permanent residence contracts.

Contract term	PIT rate	Tax coefficient
< 2 years	28%	0.91
2 - 5 years	26%	0.9
5 - 10 years	23%	0.89
> 10 years	14%	0.79
> 20 years	10%	0.7



For CIT purposes, taxable rental income is always determined by applying the 0.87 coefficient, except for taxpayers covered by the simplified regime for determining taxable income.

To benefit from this support, the rents must meet the following cumulative requirements:

- Fall due and be paid in 2023.
- Derive from lease agreements in force before January 1, 2022.
- Not refer to contracts that are updated at a higher amount than the result of applying the 1.02 update coefficient stipulated in Law 19/2022.

This benefit will apply between January 1 and December 31, 2023.

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