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Banking & Finance and Capital Markets
Tax

Capital markets and investment funds: Tax incentives

Tax incentives for developing the capital markets and promoting the capitalization of nonfinancial companies

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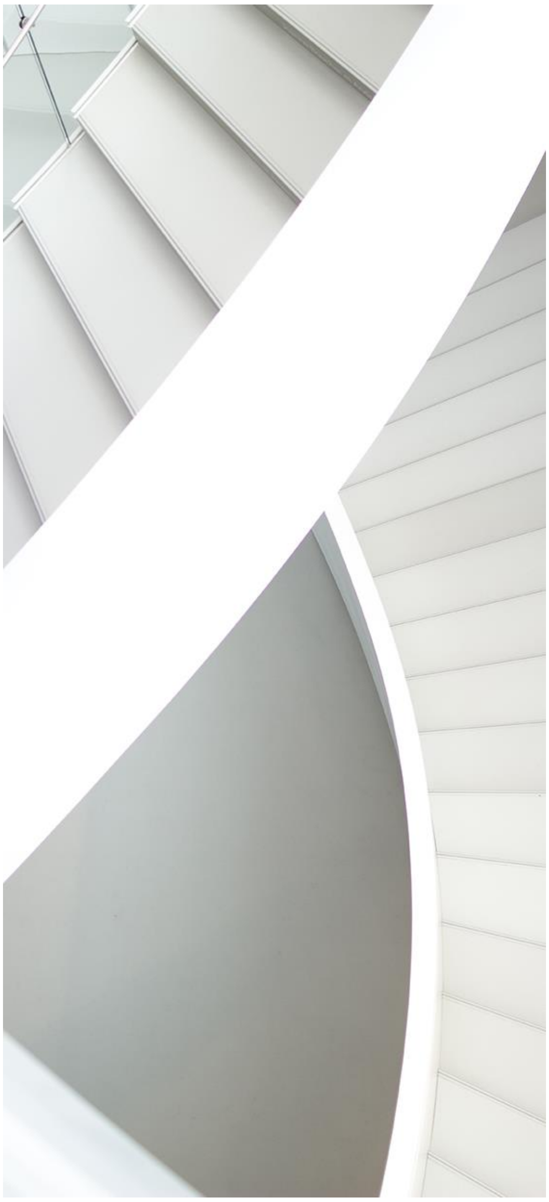

Key aspects

Law 31/2024 of 28 of june (“**Law**”), a draft law left in the transition portfolio for the current government, has now been published. It approves tax measures aimed at stimulating the capital markets and encouraging the capitalization of nonfinancial companies.

- The Law introduces a variety of tax incentives designed to develop the capital markets, foster the capitalization of nonfinancial companies, and encourage housing rentals. It aims to boost both supply and demand in the capital markets.
- The Law also clarifies certain tax aspects, including the regime applicable to loan funds.
- It also amends the Personal Income Tax Code, the Stamp Duty Code, and the Tax Benefits Statute.
- The Law enters into force on the 29 of June.

Law approving tax measures to stimulate capital market

Context

The context of the Law stems from Law Proposal 3/XVI/1, which the government submitted to the Portuguese Parliament on May 31. It was subsequently approved on June 12 with substantial political consensus. The proposal was based on the draft law left by the previous government in the transition file, as analyzed in our previous Legal Update Tax incentives to develop the capital market, published on April 4.

Objective

The Law introduces various tax measures aimed at stimulating capital markets. These measures seek to broaden the credit alternatives for companies, thereby increasing the capital available for business investment and strengthening the financial health of the business sector. The Law also aims to incentivize savings and investment by encouraging more dynamic participation in capital markets.

New tax regime for loan funds and economy-stimulating investment companies

- The Law specifies the tax regime for loan funds foreseen ("**Loan AIFs**") in the Asset Management Regime—approved by Decree-Law 27/2023 of April 28—and for economy-stimulating investment companies ("**SIMFEs**") established in Decree-Law 77/2017 of June 30. It is now clear that these entities benefit from the tax regime for venture capital funds ("**Venture capital AIUF**"), as outlined in article 23 of the Tax Benefits Law ("**EBF**").

- Loan funds, venture capital AIFs, and SIMFEs will now benefit from the following when operating in Portugal:

  - They will be exempt from corporate income tax ("**CIT**") on income obtained.

  - Income from units or shares in loan AIFs, venture capital AIFs, and SIMFEs is subject to CIT or personal income tax ("**PIT**"), depending on whether the holder is a legal entity or an individual. The tax is withheld at a 10% rate when the income is paid to the respective holders. However, this income is exempt from CIT when it is paid to entities exempt from capital income tax or to nonresident entities without a permanent establishment in Portugal.

  - Unless exempt under article 27 of the EBF, capital gains made by nonresidents from selling units or shares in Loan AIFs, Venture capital AIFs or SIMFEs, or by individuals who made these gains outside of a commercial, industrial or agricultural activity and do not opt for income aggregation, will be subject to CIT or PIT—as applicable—at a 10% rate.

Tax incentives for collective investment undertakings that invest in properties for affordable rental housing

- The income of holders of shares or units in collective investment undertakings ("**Investment Funds**") that make certain real estate investments intended for housing rentals or sublets under the Affordable Rental Program will now benefit from a partial CIT or PIT exemption under article 24-A of the EBF.

- To be eligible for these benefits, Investment Funds must:

  - have been incorporated or have had their incorporation documents amended by December 31, 2025; and

  - possess assets that include at least 5% of property rights or other equivalent rights over real estate intended for rentals or sublets under the Affordable Rental Program (See Decree-Law 68/2019 of May 22).

- The exemption percentage, ranging from 2.5% to 10%, will depend on the proportion of the Investment Fund's eligible assets in its total assets. Consequently, holders of shares or units in Investment Funds may benefit from the following partial tax exemptions:

Eligible assets	Partial tax exemption	Effective taxation of residents – CIT/PIT	Effective taxation of nonresidents – CIT/PIT
<5%	N/A	25%/28%	10%
5%–10%	2.5%	24.38% / 27.3%	9.75%
10%–15%	5%	23.75% / 26.6%	9.5%
15%–25%	7.5%	23.13% / 25.9%	9.25%
>25%	10%	22.5% / 25.2%	9%

- The new law also provides for a stamp duty reduction. Investment Funds with eligible assets constituting over 25% of total assets will receive a 25% reduction on the rate specified in item 29.2 of the General Stamp Duty Table. This results in an effective stamp duty rate of 0.009375%, to be paid quarterly on the taxable person's overall net value.

Tax incentives for listings and public offerings of share capital securities on a regulated market

- The new law introduces incentives for listing share capital securities on a regulated market (e.g., Euronext). Specifically, these are for (i) the first listing, (ii) the second listing and (iii) a public offering of securities resulting in a dispersion of at least 20% of its share capital in the same or in the preceding tax periods (article 32-E of the EBF).

- Therefore, entities resident in Portugal that (i) are subject to CIT, (ii) carry out a commercial, industrial or agricultural activity as their main activity and (iii) are classified as micro-enterprises, small, medium-sized, or small mid-cap or mid-cap enterprises, can benefit from:

  - a 100% increase, for the purposes of determining taxable profit for CIT purposes (i.e., the total deduction), in the eligible costs incurred relating to the first listing on a regulated market or public offering; and

  - a 50% increase for the purposes of determining taxable profit for CIT purposes in the eligible costs associated with the second listing on a regulated market, regardless of the dispersion it causes in the issuer's share capital.

    Note: Eligible expenses for this purpose include fees, commissions, and other charges directly related to the listing or public offering, including those for the required preparatory acts and associated intermediation expenses. This includes commissions for the listing sponsor and financial intermediaries providing placement services (with or without a guarantee), underwriting or assistance services, and fees for lawyers and auditors.

Savings tax incentives for individuals

- The law also establishes incentives for holders of medium- and long-term financial instruments traded on regulated markets (or selected for trading on other organized trading systems), and of units or shares in open-ended Investment Funds. These incentives take the form of a partial income tax exemption for these assets, which varies based on the holding period:

Financial instrument holding period	Tax exemption	Effective taxation
<2 years	N/A	28%
2–5 years	10%	25.2%
5–8 years	20%	22.4%
>8 years	30%	19.6%

- Lastly, for tax purposes, Pan-European Personal Pension Products (“**PEPPs**”) established and operating under national law, or those domiciled in another European Economic Area state when not established in Portugal, will be treated the same as retirement savings products. Therefore, the benefits and tax regime applicable to these retirement savings products will also apply to PEPPs.

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