

2021 February

# A pandemic budget

2021 State Budget Law



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This document presents the key aspects  
of the State Budget for 2021.

# 2021 State Budget Law

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Analysis by Rosa Branca Areias



### 2021 State Budget Law

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# Surgical measures in times of pandemic

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“Contrary to what other Member States have done, we have not found concrete measures to revive the economy.”

**Following the publication of the 2021 State Budget law, the tax amendments proposed are short.**

**Despite an historical record number of proposals presented for the discussions on details.**

Contrary to other Member States, there are no specific measures aiming at relaunching the economy despite it being said that it may still happen in 2021. A relaunching would focus on temporary support measures to reinforce tax benefits related to investment and job creation.

As I have stated a number of times, it is now that the European Union would be more than willing to allow extraordinary state aid. Even more surprisingly, the proposal concerning the limitation to the use of tax benefits was neither rejected or amended. Is there a lack of care in the analysis of the proposals presented at the Parliament? That must be the conclusion, which is still objectionable.

Following the discussion in details, there was a relief on the additional requirements to R&D benefits (SIFIDE II), in case of investments in R&D companies made by investment funds. The effective use of the underlying tax credit depends on the actual investment being done by the investment fund, and the respective allocation to R&D activities to be made by the relevant companies, however lack of compliance does not imply late assessment interest.



At European scale alongside tax benefits to investment and job creation, there is great concern about protecting a minimum income for the population in general. Portugal introduced measures at this level. Namely: increase of pensions, increase of the unemployment allowance, a new extraordinary employment allowance, an extraordinary risk allowance to combat the pandemic, among others. These measures aim at materialising the State's social responsibility and increasing domestic consumption.

The announced decrease of the monthly withholding tax rates will only redistribute the income available. An increase of the available income resulting from lower withholding tax rates will lead to a lower tax refund or a higher tax bill in 2022, with a false sense of liquidity.

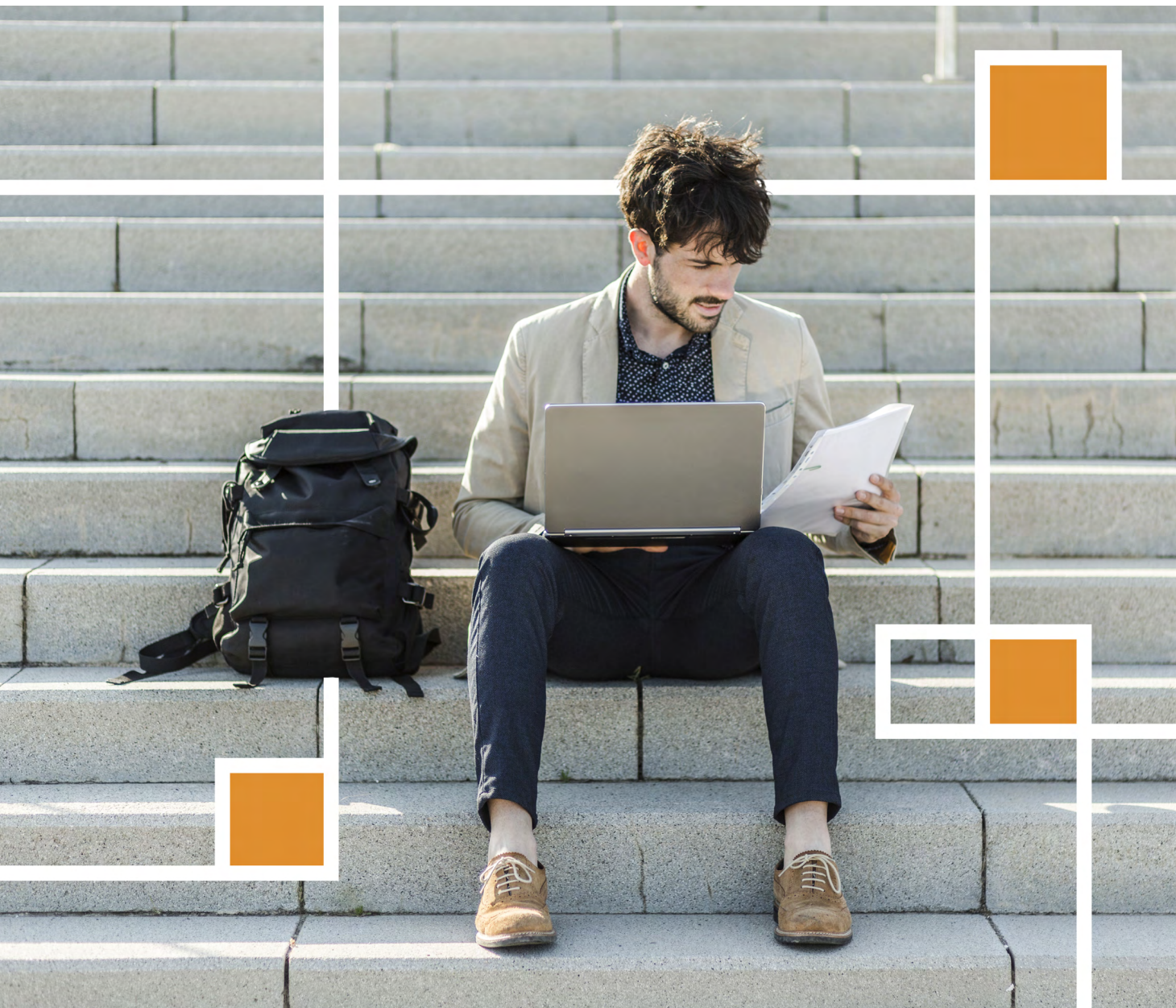
As for the focus point of this budget – the VAT voucher (“IVAoucher”) –, in a scenario of new mutations of the virus and the vaccination plan far from over, although announced as a way to subsidize the three most affected business sectors – lodging, catering and culture – it may end up with no practical effects.

“ The second quarter of 2021 will grant families a voucher corresponding to the VAT incurred in the first quarter on the acquisition of lodging, catering and cultural services.”

In what the real estate sector concerns, a highlight for the new provision concerning the levy of Real Estate Transfer Tax (IMT) on the transfer of shareholdings and the uniformization of tax rules for different legal types of companies. Taxation arises in case of companies which asset comprise more than 50% of real estate that is not allocated to a commercial, industrial or agricultural activity, resale excluded. This was not expected as one would expect measures to foster transactions. Another new provision concerns the aggravated IMT and Real Estate Tax (IMI) rates, as well as the end of certain exemptions (namely IMT exemptions on resale) in case of real estate held by a company directly or indirectly under domain or control of an entity resident in an offshore.



# 2021 State Budget Law



# 1. Personal Income Tax (PIT) and Social Security

## Personal Income Tax (PIT)

### Capital gains

No capital gains shall be assessed in case of allocation of real estate held privately by an entrepreneur to the respective business activity. The same applies in the opposite case, i.e. private allocation of real estate used by an entrepreneur in the respective business activity.

Any taxable capital gain shall only be assessed in case of disposal of the real estate to a third party, regardless of being used in the business activity.



## 1. Personal Income Tax (PIT) and Social Security



“There is no taxation on the capital gains assessed in the allocation of real estate to private use or to a business activity.”

In case the real estate is disposed of before three years have elapsed following the private allocation, the capital gain is taxed under Category B (business income). The relevant price of acquisition shall be the value of the real estate upon acquisition (currently, it is relevant the market value of the real estate at the time of the private allocation).

The disposal of the real estate taken place after three years following the private allocation implies the taxation of the capital gain under Category G (increase in wealth).

For the purposes of assessing the amount of the taxable capital gain, expenses with improvements in the real estate shall be disregarded if incurred while the real estate was being used in the business activity.

Latent capital gains assessed under the current regime shall be subject to the new taxation regime detailed above.

With reference to 1 January 2021, taxpayers owning real estate allocated to a business activity can opt for the previous tax regime when assessing tax capital gains or capital losses on the allocation of such real estate. Said option should be included in the 2021 PIT tax return, as well as the real estate concerned.

### Capital gains on real estate – Reinvestment

Under the rules introduced in 2019, capital gains arising on the sale of real estate used as permanent home are exempt from taxation among others in case of reinvestment with the acquisition of an insurance contract, units in an open pension fund or contributions to the public capitalisation regime. In respect of the insurance contract, it is now clarified that only life financial insurance is eligible.

In addition, the following cumulative conditions apply:

- the taxpayer or respective spouse or unmarried partner are retired or have at least 65 years at the date of transfer of the real estate;
- reinvestment should take place within 6 months following the transfer;
- in case of reinvestment in an insurance contract or acquisition of unit in a open pension fund, these grant a periodical or regular return of a maximum annual amount corresponding to 7.5% of the amount invested.

It is now established that the payment of said periodical or regular amount must occur throughout a ten year period or a higher period. Any interruption determines the loss of the benefit granted.

Except for the rules concerning the term of the periodical or regular amount, the remaining amendments to these provisions have an interpretative nature.

### Capital gains – Transfer pricing rules

The terms and conditions of transactions carried out between a taxpayer and an entity with whom special relations exist (as foreseen in the applicable transfer pricing rules), and such transactions giving raise to capital gains or capital losses, should be identical to those of transactions taken place between independent entities, in comparable transactions (the regime foreseen in Article 63 of the Corporate Income Tax Code applies with the necessary adjustments).

“Transfer pricing rules now apply to Personal Income Tax.”



## 1. Personal Income Tax (PIT) and Social Security

### Business income

#### Assessment

In case of private allocation of real estate previously used in a business activity concerning which depreciation or impairment losses were made respectively recognised, the income of the year concerned and of the three following years should include, in equal amounts, the tax deductible costs incurred while the real estate was allocated to the business activity.

Said amount is added up to the acquisition value in case of computation of the tax due on any taxable capital gains assessed.

#### Simplified tax regime – Expenses

The amount of costs incurred with employees, real estate rents and other expenses incurred on the acquisition of services (necessary to carry out the business activity) can be amended in view of the amounts stated in the Tax Authorities' dedicated website ("e-Fatura"). The amendment is made upon filing the 2020 Personal Income Tax return.

Amendments to the amounts stated in "e-Fatura" require proof.



“ VAT on fitness activities is now tax deductible.”

### Tax credits

#### Health expenses

15% of the amounts incurred with the acquisition of protective respiratory devices and sanitary gel are allowed as tax deductible health expenses. These should be subject to VAT at the reduced rate.

The overall cap of tax deductions for health expenses remains unchanged at EUR 1,000 per household.

#### Issuance of invoice

Requesting the issuance of an invoice allows a Personal Income Tax credit corresponding to 15% of the VAT incurred by any member of the household. This applies to sports and recreational activities, sports clubs and gyms/fitness clubs.

The tax deduction of costs incurred with the acquisition of veterinary medicine increases from 15% to 22.5% of the VAT incurred.

This deduction is capped at EUR 250 per household.

#### Amendments to tax credits

The transitional regime allowing amendments to expenses incurred with health, education, real estate and retirement homes, in view of the amounts stated in the "e-Fatura" is maintained. The amendment is made upon filing the 2020 Personal Income Tax return.

Amendments to the amounts stated in "e-Fatura" require proof.

## 1. Personal Income Tax (PIT) and Social Security

### VAT voucher (“IVAucher”)

The amount of VAT used under this regime is disallowed for the purpose of assessment of Personal Income Tax deductions – specifically the general and family expenses, and the deduction allowed in case of requesting the issuance of invoices.

### Donations

A taxpayer granting donations of an amount exceeding € 50,000, and (i) which respective tax liability in the year concerned is lower than the amount of the allowed deduction or (ii) that reaches the cap of the deduction (15% of the tax liability), can carry the amount of the deduction forward for the following three years, capped at 10% the tax liability in each of the tax years concerned.

### Minimum subsistence level

There is an increase by € 100 of the amount of the minimum subsistence level for PIT purposes in respect of the PIT to be assessed in 2021 on the income earned in 2020.

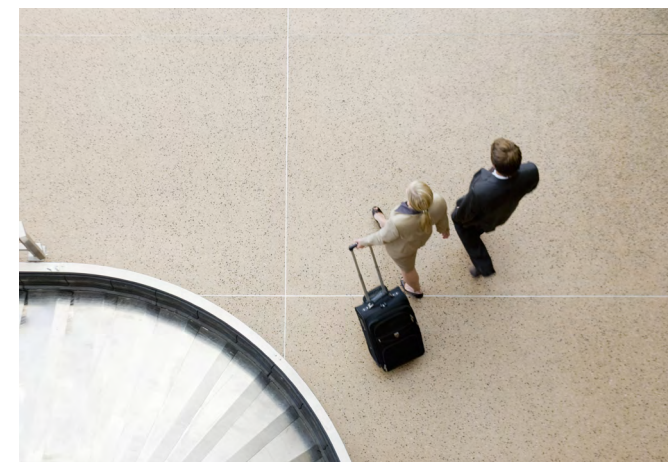
For income earned in 2021, the existing computation shall apply ( $1.5 \times 14 \times$  Social Support Index or “IAS”).

“ Increase by € 100 of the minimum subsistence level concerning income earned in 2020.”

### Refund of amounts invested in savings plans

Until 30 September 2021 it is allowed the refund, without tax penalties, of amounts of retirement savings plans, education savings plans and retirement/ education savings plans, endorsed until 31 March 2020. The following conditions apply:

- refund capped at the monthly amount of the Social Support Index (“Indexante de Apoios Sociais” or “IAS”) in case one of the members of the household:
  - is in preventive isolation or illness or is providing assistance to children or grandchildren;
  - is in a situation of reduction of the normal work hours, or has his labor contract suspended, resulting from the employer being in a situation of company’s crisis;
  - is eligible for the extraordinary support to employment;
  - is eligible for the extraordinary support in case of reduction of the business activity of a self-employed individual;
  - being a worker without economic or social benefits, it is eligible for the extraordinary support in force;



- has a decrease of the relevant monthly average income above 40%, between March and December 2020, when compared with the relevant monthly average income of 2019, as well as between the most recent quarterly return available with reference to the date at which the support is requested and the relevant monthly average income in 2019.
- refund capped at a monthly amount corresponding to 1.5 the IAS in case one of the members of the household which is a lessee in a rental contract of an urban real estate used for permanent habitational purposes in force at 31 March, benefits from the regime of deferral of rental payments and need said amount to regularise rents.

## 1. Personal Income Tax (PIT) and Social Security

### Legislative authorisations

#### Forestry Savings Plans (“Planos de Poupança Florestal”)

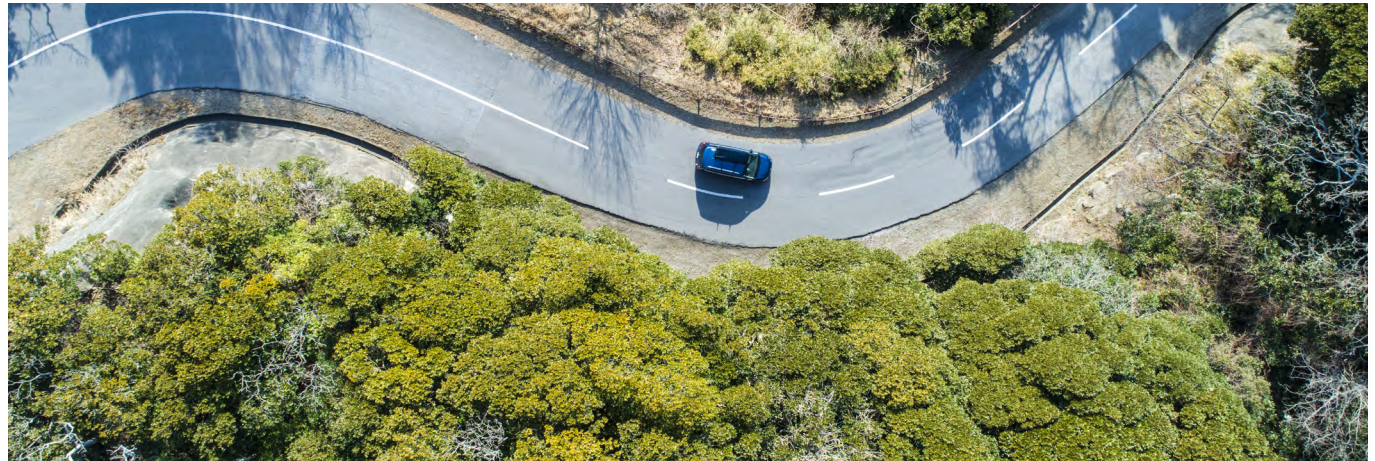
Similar to the 2020 State Budget law, the Government is once again granted authorisation to establish tax benefits for Forestry Savings Plans (FSP). The regime shall include an exemption from Personal Income Tax on interest arising from FSP as well as a tax credit corresponding to 30% of the amounts invested in cash to a FSP in the year concerned, capped at € 450 per taxpayer.

### Social Security

#### Sustainability index in case of anticipation of aged-retirement pension

The sustainability index does not apply on the computation of retirement pensions required between 1 January 2019 and 1 January 2020 under the existing aged-retirement pension anticipation regimes.

The respective amount can be reassessed upon request. The new amounts computed apply to pensions paid from 1 August 2020 onward.



“ Costs incurred with respiratory protective devices and sanitising gel are allowed as tax deductible.”

### Legislative authorisation

#### Professionals in the cultural field

The Government is granted authorisation to set up a regime of social security applicable to entertainers, professionals in the fields of arts, audiovisual, visual arts and literary creation.

The legislative authorisation includes:

- a definition of the social security and contributions regime applicable to said professionals, aiming at setting up protection in case of sickness, parenthood, occupational illnesses, disability, old age and death; these shall be guaranteed by the social security scheme applicable to employees and self-employees; protection during unemployment is also covered;
- establishment of a transitional regime for an extraordinary regularisation of social security contributions and taxes related with the activity developed by said professionals.





## 2. Corporate Income Tax (CIT)

### Permanent Establishment

#### **Permanent Establishment (PE) – Taxable profit**

The taxable profit of a PE in Portugal of a non resident entity includes the income derived from the sale of goods and merchandising made by the head office to natural or legal persons that are resident for tax purposes in Portugal, provided that such products are identical or similar to those sold through the PE.

“ The concept of permanent establishment included in the Corporate Income Tax Code is in line with BEPS and the latest version of the OECD Model Tax Convention on Income and on Capital.”

## 2. Corporate Income Tax (CIT)

“ A broader concept of permanent establishment reinforces the measures to fight tax evasion and the shifting of profits to other jurisdictions.”

### Permanent establishment – concept

Business activities derived from services, including consulting services, performed by an enterprise, through its own staff or subcontractors hired with the purposes of carrying such activities in the Portuguese territory; provided that such activities are performed for a period or periods exceeding in the aggregate 183 days in any twelve month period starting or ending in the relevant tax year are deemed to lead to the recognition of a PE in Portugal.

A PE is also deemed to be recognised in case of installations, platforms or ships in general (currently, reference is made to drilling ships) used in the prospection or exploitation of natural resources, in case the respective activity exceeds 90 days (currently, 6 months).

### Dependent Agent Permanent Establishment (DAPE)

A DAPE is deemed to be recognised where a person that is not an independent agent is acting in the Portuguese territory on behalf of an enterprise and, in doing so habitually has an authority to intermediate and conclude contracts that are binding for the enterprise, that are routinely concluded without material modification by the enterprise.



“ Cooperatives, micro, small and medium sized companies that as a rule did not assess tax losses are no longer subject to aggravated rates of autonomous taxation.”

A DAPE is also deemed to be recognised in case a person that is not an independent agent maintains in the Portuguese territory a stock of goods or merchandise for delivery in the name of the enterprise, even if it does not conclude contracts in respect of such goods or merchandise or has any intervention in the conclusion of such contracts).

### Permanent establishment – Preparatory or ancillary activities

In line with the extension of the PE concept, the use of facilities or the maintenance of a stock of merchandise with the single purpose of delivery are no longer regarded as preparatory or ancillary activities.

It is also deemed a PE a fixed place of business or a stock of goods or merchandising used or maintained by an enterprise if the same enterprise or a closely related enterprise constitute complementary functions that are part of a cohesive business operation and (i) that place or stock constitutes a permanent establishment or (ii) the overall activity resulting from the combination of the activities carried out does not have a preparatory or auxiliary character.



## 2. Corporate Income Tax (CIT)

### Autonomous taxation – Hybrids plug-in

Reduced rates of autonomous taxation (5%, 10% and 17.5%) apply only to hybrid plug-in vehicles which battery can be charged by connecting to power grid, having a minimum autonomy while working in the electric mode of 50 km, and official emissions of less than 50 gCO<sub>2</sub>/Km.

### Autonomous taxation – Transitional provision applicable in 2020 and 2021

A transitional provision applies to cooperatives, as well as micro, small and medium sized companies. It foresees that the aggravated autonomous taxation (10%) is not applicable in the following circumstances:

- (i) the taxpayer assessed taxable profits in one of the previous three tax years, having complied timely with the filing of the CIT return and the Annual Statement (IES) concerning the two previous tax years; or
- (ii) the activity started in 2020 or 2021, or those years correspond to the first or second year of activity.



Cooperatives, micro, small and medium sized companies can waive the need to make payments on account. In 2021 they can also request a full and immediate refund of the special payment on account that has not been offset.”

### Waiving of payments on account

Cooperatives, as well as micro, small and medium-sized companies, can waive the obligation to make payments on account in 2021.

### Special payment on account – Early refund

In 2021, cooperatives, as well as micro, small and medium-sized companies, can request the full and immediate refund of the special payment on account that was not yet offset.



General rates of autonomous taxations apply to hybrid plug-in vehicles failing to comply with the requirements established by law.”

### Exclusion from public support of entities related with clearly more favourable tax regimes

The following entities are excluded from public support measures created within the context of the extraordinary and temporary COVID.19 pandemic measures:

- entities with head office or place of effective management in countries, territories or regions with a more favourable tax regime, included in the list approved by Decree 150/2004, of 13 February 2004;
- companies under the domain (within the meaning of Article 486 of the Company's Code) of entities (including all sort of fiduciary structures) with head office or place of effective management in countries, territories or regions with a more favourable tax regime, included in the list approved by Decree 150/2004, of 13 February 2004; the same applies in case the respective beneficial owners is domiciled in such countries, territories or regions.





## 3. Indirect Taxes

### VAT

#### Reduced VAT rate

The VAT Code shall include a provision according to which the reduced VAT rate applies to respiratory protective mask and disinfectant gel.

#### Certification of bad debts

Certification of bad debt can be made by an independent statutory auditor or certified accountant in case the amount of tax to regularise is of an amount up to € 10,000 by means of an upfront authorisation request (instead of the tax return). This amendment has interpretative nature.

#### Exemption on the supply of goods to combat the pandemic

The supply of medical devices and equipment to combat the pandemic is exempt from VAT until 30 April 2021. Law 13/2020 of 7 May lists said devices and equipment, as well as the acquiring entities.

The above exemption is extended to supplies of goods to scientific and higher educational institutions.

### 3. Indirect Taxes

#### Beneficiaries of a full or partial refund corresponding to the amount of VAT incurred

Higher educational institutions and non profit organisations part of the national science and technology network (duly registered in the National Inquiry of Scientific and Technological Potential – “Potencial Científico e Tecnológico Nacional” or “IPTCN”) can benefit from a full or partial refund corresponding to the amount of VAT incurred in certain acquisitions of goods or services. These should be related with the respective R&D activity. The VAT included in said expenses must be deductible (as per Article 21 of the VAT Code).

#### e-Commerce

The entry into force of the new rules applicable to e-commerce with individuals was postponed to 1 July 2021. E-commerce operators intending to apply the special VAT regimes foreseen in the relevant legislation can register electronically with the Tax Authorities, from 1 April to 30 June 2021.

#### QR Code a ATCUD

The insertion of the QR Code and ATCUD on invoices and other tax relevant documents is an option in 2021. It shall be mandatory from 1 January 2022 onward.

#### VAT voucher (“IVAucher”)

IVAucher aims at fostering private consumption in the hospitality, cultural and catering industry, all severely affected by the pandemic.



“ The taxation of fossil fuels is progressively increased.”

The amount of VAT incurred in said consumptions each quarter will grant a discount on the same type of consumptions in the following quarter.

This incentive requires consent by the private consumer, as well as communication of the respective invoices to the Tax Authorities. It shall be made by interbank settlement.

The Government shall establish the scope and specific terms of this incentive.

#### Legislative authorisations

##### Utensils for disabled people

The legislative authorisation already granted in the 2020 State Budget law is foreseen in the 2021 State Budget law. The intention is to extend the reduced VAT rate currently applicable to supplies, leasing and maintenance of utensils and all sorts of devices or objects specifically for the use of disabled people.

##### Reduced VAT rate on beverages supplied in restauration

The 2021 State Budget does not include a legislative authorisation related with the reduction of the VAT rate on beverages supplied in the restauration. All amendments to this proposal have been rejected.

#### Circulation Tax

A 50% tax relief applies to vehicles classified as Category C with gross weight above 3.500 Kg and used exclusively in the entertainment industry.

The aggravated Circulation Tax (“Imposto Único de Circulação” or “IUC”) applicable to diesel vehicles classified as Categories A and B is maintained in 2021.



### 3. Indirect Taxes

## Tax on Vehicles

There is now an environmental component for the purpose of assessing the rate applicable to second hand vehicles originating in the European Union.

Aggravated taxation of hybrid, hybrid plug-in and gas moved vehicles with higher cubic or power and higher emissions when compared with conventional vehicles even with less cubic or power.

## Excise Duties

### Tax on oil and energy products ("ISP")

The unit rates of ISP remain unchanged. The inflation index is not being considered.

Advanced biofuels are fully exempt from ISP provided that they are certified with the biofuel title ("Título de Biocombustível" or "TdB"). Renewable gases are also fully exempt provided that they are certified with guarantee of origin ("Garantia de Origem" or "GO").

There is an increase of the tax rates applicable to a number of products used in the production of electricity, combined heat and power and town gas. This applies to entities having such activity as their main business, either in Portugal mainland and in the Autonomous Regions. Additional increases are also foreseen for 2022 and following years.

A number of these products if used in premises subject to an energy consumption rationalisation plan ("acordo de racionalização dos consumos de energia" or "ARCE") shall be subject to taxation. Taxation does not apply if such products are covered by the European Emissions Trading Scheme (EETS).



The aggravated ISP applicable to gasoline and diesel is maintained.

In 2021, the Government shall endeavour restrictions to apply from 1 January 2022 on the sale and production of fuel and biofuel that include oil palm.

The exemption of ISP on diesel and fuel oil used in dredging of ports and waterways.

### Alcoholic beverages

There is a reduction by 50% of the taxation of spirit drinks (liquor, brandy and rum) produced in the Autonomous Regions of Madeira and of the Azores, introduced for consumption in the mainland.

It is reduced by 75% the tax rate applicable to products derived from strawberry trees in certain municipalities and under the conditions established by law, as per regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008.

“ QR codes on invoices postponed to 1 January 2022.”

### Tobacco

The computation of the minimum reference total tax is amended. It shall be linked to the weighted average price of the cigarettes introduced in consumption. Currently, such computation considers only the higher class of sales prices.



## 4. Real estate taxes

### Real Estate Municipal Tax (IMI)

#### **Real estate with reduced tax registration value owned by low income taxpayers**

There is an extension of the IMI exemption of real estate with a tax registration value of € 66,500 or lower (considering the entirety of the real estate owned by the household) held by taxpayers part of a household with a gross total income of € 15,295 or lower. The exemption will now apply to the share of each heir that meets the requirements to benefit from the exemption. It is required that the real estate is held by an undivided estate and is allocated to the permanent home of said heirs.

#### **Assessment of the tax registered value of land for construction**

There is an amendment of the provisions on the assessment of the tax registered value of land for construction. The respective computation is now clearly foreseen. According to the new rules, and differently from the former rules, the percentage given by the value of authorised or foreseen buildings, land included (one of the parameters of the computation, ranging from 15% to 45%) now applies to the entire computation method.

## 4. Real estate taxes

# Real Estate Transfer Tax (IMT)

## Uniformization of taxation for all legal types of companies

The previous distinction between Private Limited Liability Companies (“Sociedades por Quotas” or “Lda.”) and joint stock companies (“Sociedades Anónimas” or “SA”) ceases to exist. Real Estate Transfer Tax applies at 6.5% in the following cases:

- acquisition of shares in non-listed companies whose assets consist of more than 50% of real estate located in Portugal;
- when such real estate is not directly allocated to a commercial, industrial or agricultural activity (except resale); and
- by virtue of such acquisition, redemption of shares of any other facts, one of the shareholders owns at least 75% of the sharecapital (or the number of shareholders is reduced to two married persons or in a non marital partnership).

## Allocation to shareholders of own shares held by a company

In case of ownership of a participation of at least 75% of the sharecapital (by means of acquisition, redemption or in other situations) as well as in case the number of shareholders is reduced to two married persons or in a non marital partnership, own shares held by the company should be allocated to the shareholders in proportion of their respective participation.



Although there are no major amendments to the taxation of real estate, the major change relates to the taxation of the acquisition of shares in joint stock companies that own real estate, even with a limited scope. The same rationale underlies the new provision triggering property transfer tax on the transfer of joint stock companies that own real estate.”

## Taxable value of real estate acquired by shareholders

A new rule is introduced for quota holders, shareholders or other unitholders that have paid IMT upon the acquisition of shares or participating units, and that become owners of real estate as a result of a subsequent transaction (by means of dissolution of the company or any other transaction for a consideration). The amount of IMT payable by the quota holder, shareholder or other unitholder shall correspond to the difference between the IMT due and the amount previously paid.

## IMT/IMI – Indirect ownership by offshore entities

Entities held directly or indirectly by offshore entities are not entitled to the suspension of IMI applicable in case of resale.

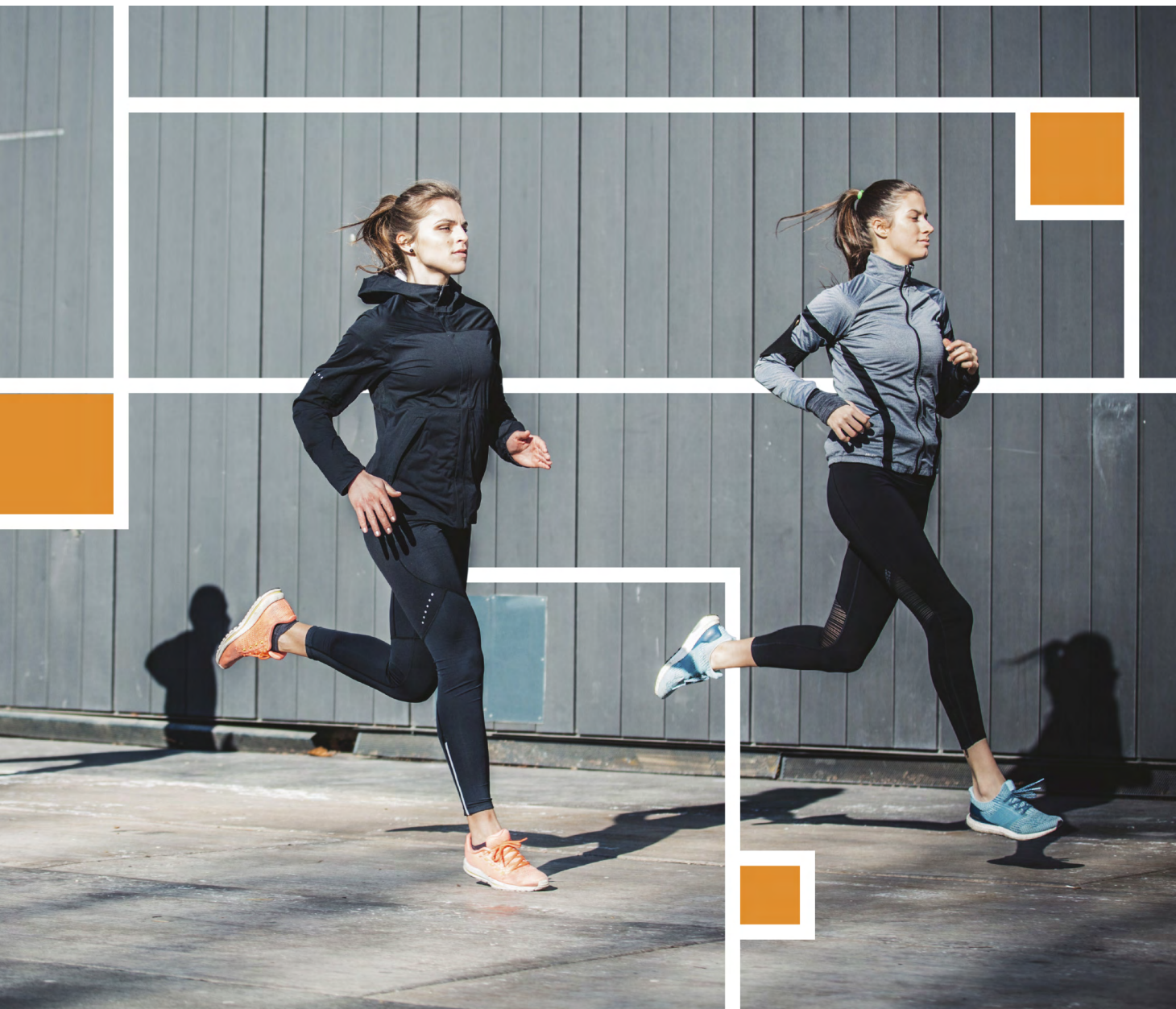
Aggravated IMI and IMT rates (7.5% respectively 10%) also apply in case of indirect ownership by offshore entities. I.e., in case of real estate owned by a company under the direct or indirect domain or control (within the meaning of the Company’s Code) of an entity resident in an offshore territory.

## Amendment to the Tax Benefits Code – National fund for the restoration of building

### Extension of the tax regime applicable to a national fund for the restoration of buildings (“Fundo Nacional de Reabilitação do Edificado”)

This tax regime is extended until 31 December 2025. It was formerly currently established under the tax regime applicable to Real Estate Investment Funds for Residential Letting (“Fundos de Investimento Imobiliário para Arrendamento Habitacional”), having ended in 31 December 2020.





## 5. Other tax matters

### Tax benefits

#### CIT

#### Patronage

##### **Hospital Institutions (public enterprises)**

Donations granted to hospital institutions having the status of public enterprise ("Empresa Pública Empresarial" or "EPE") are eligible as a tax benefit under the patronage regime.

##### **Celebration of the 500 years of the Circumnavigation**

Donations granted by natural or legal persons to the celebration of the circumnavigation by the Portuguese navigator are eligible as a tax benefit under the cultural patronage regime.

##### **Portuguese EU Council Presidency Mission**

Donations granted by natural or legal persons to the Mission Structure for the Presidency of the Council of the European Union, during the respective mandate, are eligible for patronage regime.



## 5. Other tax matters

### Dubai World Exhibition (2021)

Donations granted by natural or legal persons to the Embassy of Portugal in the United Arab Emirates, for the purposes of the Portuguese participation in the Dubai World Exhibition (2021), are eligible for patronage regime.

### World Youth Day

Donations, in cash or in kind, to the Fundação JMJ-Lisboa 2022, which is a legal entity responsible for preparing, organising and coordinating the World Youth Day 2023 in Lisbon, are allowed as tax deductible costs for 140% of the respective amount. This benefit will be in force until the end of the event.

### Cultural patronage

The tax benefits foreseen under the cultural patronage are now applicable to entities that are engaged as their primary activity in cultural activities. Theatre, opera, ballet, music, cinema, dancing, performing arts, visual arts, organization of festivals and other artistic expression, film, audio visual and cinematographic, audiovisual and literary productions are eligible.

### Extraordinary cultural patronage in 2021

Donations eligible under the cultural patronage benefit from an additional deduction of 10% (20% in case of inland regions). The following conditions should be met:

- annual amount of € 50,000 or higher, per each beneficiary entity;

- donations in benefit of actions or projects aiming at heritage conservation or museologic programmes; and
- such actions or projects are recognised upfront by the competent Government members (finance and culture).

The applicable annual cap of 8/1000 of the turnover is increased by 50% in case the respective difference relates to said actions or projects.

### Transitional tax incentive scheme for external promotional activities

Costs incurred in 2021 and 2022 with joint external promotional activities are allowed as tax deductible for 110% of the respective amount. This measure applies to micro, small and medium sized companies resident for tax purposes in Portugal, as well as permanent establishments in Portugal of non resident entities in the same conditions. It is also required that the beneficiaries of this incentive carry out directly and primarily agricultural, commercial or industrial activities.

Eligibility conditions and expenses are defined in the proposal. Eligible expenses include costs with participation in fairs and exhibitions outside Portugal, specialised consultancy services rendered by outsourced consultants, as well as activities aiming at internationalisation.

Depending on the nature of the eligible expenses, this benefit is subject to European Union de minimis rules and on matters of state aid.

### Tax benefits scheme for R&D (SIFIDE II)

The eligibility for the R&D tax benefits scheme (“Sistema de incentivos fiscais em investigação e desenvolvimento empresarial II” or “SIFIDE II”) of equity investments in R&D institutions or contributions to private or public investment funds will require effective investment in equity or quasi-equity of R&D companies.

It is clarified that a “company mainly dedicated to R&D activities” corresponds to a company with a recognition in the technological area.

In addition to the mandatory period of maintenance of the investment in an investment fund, an additional requirement is introduced. Within five years, it is required that the investment fund effectively makes an investment of at least 80% in the so-called companies dedicated to R&D activities, and these effectively invest in R&D activities. Otherwise, the CIT liability of the tax year concerned is increased by the amount of unpaid CIT resulting from the misuse of the tax benefit (proportionally if applicable).

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“ Large companies with profits in 2020 are required to maintain jobs in order to have access to tax benefits.”

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## 5. Other tax matters



### Extraordinary and transitional regime of job maintenance

In 2021, access to certain tax benefits and public support measures will depend on job maintenance. This shall apply to entities engaged mainly in agricultural, commercial or industrial activities (micro, small and medium sized companies are excluded) that assess positive net profit in 2020.

Among the tax benefits and public support measures covered are credit facilities with state guarantee, the regime of conventional remuneration of share capital (“Remuneração Convencional do Capital Social”), the tax regime for investment support (“Regime Fiscal de Apoio ao Investimento” or “RFAI”), the SIFIDE II and the extraordinary regime for investment (“Crédito Fiscal Extraordinário ao Investimento II” or “CFEI II”).

Further regulation is expected from the competent Government members (finance and social security).

### Extraordinary support to the implementation of accounting SAF-T (PT), QR Code and ATCUD

Expenses incurred with the implementation of the accounting Standard Audit File for tax purposes Portuguese version (SAF-T (PT)) are allowed an additional deduction of 20% for the purposes of the computation of the taxable income of CIT taxpayers who are small and medium sized companies, as well as PIT taxpayers with organised accounting. Implementation should be concluded until the term of the 2021 tax year.

Expenses incurred with the implementation of the QR Code and ATCUD are also allowed an additional deduction of 20% for the purposes of the computation of the taxable income of CIT taxpayers as well as PIT taxpayers with organised accounting. The additional deduction is of 40% in case the QR Code and ATCUD are included in all invoices and other relevant documents until the end of the first quarter of 2021. 30% in case said information is included until the end of the first semester of 2021.

Expenses incurred from 1 January 2020 onward and until the end of each period mentioned are eligible for this benefit.

For taxpayers with a special tax year the above mentioned additional deductions incurred in the 2019 tax year shall be considered in the 2020 tax return.

“ R&D incentives: Investment funds are required to make effective investments of at least 80% in R&D companies within 5 years.”

In case the eligible expenses relate to assets subject to depreciation, the above mentioned benefits apply to the costs accounted for as depreciation or amortisation throughout the useful life of the asset.

This benefit cannot be cumulative with other tax benefits of the same nature in respect of the same eligible expenses.

Consequence are foreseen for taxpayers that do not conclude the implementation of the accounting SAF-T (PT), QR Code and ACTUD within the deadlines mentioned above. The additional deductions are added back for the purpose of computation of the taxable profit of the tax year concerned, plus 5%.

## 5. Other tax matters

### Legislative authorisation – Promotion of inland regions (“Programa de Valorização do Interior”)

As in the 2020 State Budget law, the Government is granted authorisation to introduce a tax benefits scheme to promote inland regions (“Programa de Valorização do Interior”) corresponding to a CIT credit of 20% of the costs incurred with the creation of jobs in inland regions that exceed the national minimum wage, capped at the CIT due in the tax year concerned. This legislative authorisation relies on the authorisation from the European Union to expand the regional aid scheme.

### Personal Income Tax

#### Patronage

#### World Youth Day

Donations, in cash or in kind, to the Fundação MJM-Lisboa 2022, which is a legal entity responsible for preparing, organising and coordinating the World Youth Day 2023 in Lisbon, are allowed:

- as a tax deductible costs for 140% of the respective amount under Category B (Business income);
- as a tax credit corresponding to 30% of the donations made.

These benefits shall last until the end of the event.

### PIT/CIT

#### Portuguese sovereign debt issued in the Chinese market

The PIT and CIT exemptions on interest from Portuguese sovereign debt issued in renminbi in the Chinese internal debt market are maintained in 2021.

## Extraordinary Levies

### Audiovisual levy

There is no update on the monthly amounts of the audiovisual levy.

### Bank levy

The bank levy is maintained in 2021.

### Solidarity surcharge for the banking sector

The solidarity surcharge for the banking sector (“Adicional de Solidariedade Sobre o Setor Bancário”) is maintained in 2021.

### Pharmaceutical industry levy

The extraordinary pharmaceutical industry levy is maintained in 2021.

“The majority of the extraordinary levies currently in force are maintained in 2021.”





## 5. Other tax matters

### Extraordinary levy on suppliers of medical devices to the national health system

The extraordinary levy applicable to suppliers of medical devices including for in vitro diagnosis to the national health system (“Sistema Nacional de Saúde” or “SNS”) suppliers of medical devices including for in vitro diagnosis (hereafter devices) is maintained in 2021. This levy was introduced following the 2020 State Budget law.

Amendments will be introduced to the tax basis and rules on assessment, collection and payment are being proposed, subject to further regulation.

### Extraordinary levy on the energy sector

The extraordinary levy on the energy sector (“Contribuição extraordinária sobre o setor energético” or “CESE”) is maintained in 2021.

Amendments to the CESE shall be subject to analysis by the Government. These will consider the sustainable reduction of the tariff debt of the national electric system (“Sistema Elétrico Nacional”) as well as alternative financing sources for the energetic industry in social and environmental policies.

### Carbon tax on air, sea and river travels

In 2021 a carbon tax due by the user in the amount of € 2 applies on air, sea and river travels. This carbon tax is levied on the issuance of transport tickets in respect of:

- passenger commercial flights departing from airports and airfields located in the Portuguese territory;
- landing of passenger vessels on terminals located in the Portuguese territory, in respect of fuelling, repair, embarking and disembarking of passengers.



A carbon tax is approved for air, sea and river travels, as well as levy on plastic or aluminium or other disposable packages used on take-away meals.”

### Levy on plastic, aluminium or other disposable packages used on take away meals

A levy amount to EUR 0.30 per package is levied on disposable packages used on take-away meals including those with home delivery composed by plastic or aluminium or composed by other materials that include plastic or aluminum.

This levy applies:

- from 1 January 2022 onward in case of plastic packages and packages with other materials that include plastic;
- from 1 January 2023 onward in case of aluminium packages and packages with other materials that include aluminium.

Further regulation is expected from the competent Government members (finance and environment).



## Stamp Tax

### Consumer credit

The 50% increase in Stamp Tax applicable to consumer credit is extended until 31 December 2021. The safeguard clause that excludes existing agreements from the above provision is maintained.

## 5. Other tax matters

## Tax Justice

**Payment of tax debts and social security contributions in instalments**

The request for payment in instalments can be filed prior to the enforced recovery under an enforcement proceeding.

The request should be decided within 30 days otherwise it is accepted.

There is a waiver of the existing formalities in case of payments in instalments foreseen in no. 3 to 7 of Article 196 of the Tax Procedure and Proceedings Code (in respect of tax debts) and in no. 2 to 4 of Article 190 of the Social Security Code (in respect of social contributions).

“Investment in R&D within the existing tax benefits scheme SIFIDE II requires additional compliance obligations for investment fund and R&D companies.”

“Extension of the deadline to submit the accounting SAF-T (PT) in respect of the Company’s Simplified Information/Annual Statement.”

## Tax Compliance

**R&D tax benefits scheme (SIFIDE II) – New statement required**

Investment funds must provide unitholders a statement of the investment effectively made in R&D companies in the previous tax year. This statement must be provided by the end of the 4th month following the end of the tax year concerned. If applicable, the same statement must mention any lack of investment, and respective amount, within the mandatory timeline of 5 years.

The R&D companies mentioned above are also required to provide to the investment funds a statement detailing the investment made in eligible expenses in the previous tax year. This statement must be provided by the end of the 4th month following the end of the tax year concerned. If applicable, the same statement must mention any lack of investment, and respective amount, within the mandatory timeline of 5 years. This information should be provided by the investment fund to the unitholders, for the purpose of any CIT regularisation.

Unitholders as well as the investment funds concerned must include the above mentioned statements in their tax file (“dossier fiscal”).

**Company’s Simplified Information/Annual Statement and accounting SAF-T (PT) – Extension**

There is an extension of the deadline to file the accounting SAFT-T (PT) file, as well as of the information to be included in the Company’s Simplified Information/Annual Statement (IES/DA), as foreseen in Decree 31/2019, of 24 January. This now applies to the 2021 IES/DA and following years, to be filed in 2022 respectively following years.

Unitholders as well as the investment funds concerned must include the above mentioned statements in their tax file (“dossier fiscal”).

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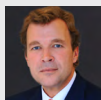
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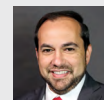
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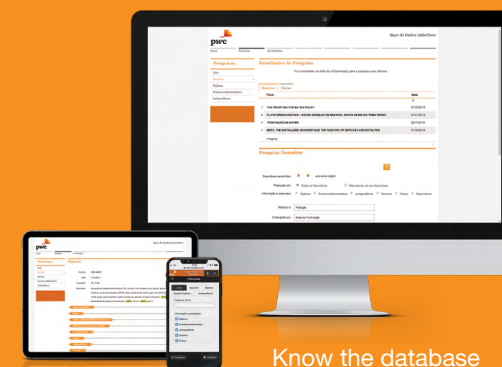
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