



## LEASING PROPERTY IN PORTUGAL – FAQs

### *1.- Which issues should I be aware of when leasing property in Portugal?*

There are two main issues to consider:

- a) Legal aspects which will be drafted in a lease agreement;
- b) Taxes: which taxes apply, how much are they and who pays them.

- d) Renewal;
- e) Securities;
- f) Rent: amount, payment and update;
- g) Responsibility over repair and maintenance;
- h) Termination.

### *2.- What should my lease agreement cover?*

Typically, the lease agreement should include at least the following:

- a) Description of property;
- b) Purpose: commercial or residential lease;
- c) Duration of lease;

### *3.- Which documents will the tenant request from me?*

It is common to provide the tenant with a copy of the property certificate from the Land Registry, and a copy of the license for usage (as a dwelling or for other purposes) which is issued by the municipality, while an energy performance certificate is mandatory.

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#### ***4.- What are the minimum and maximum durations of a lease?***

There is no minimum duration for commercial or residential leases and the parties can negotiate this freely. Should nothing be stipulated the minimum duration for a commercial lease is 5 years and 2 years for a residential lease. The maximum duration is 30 years.

#### ***5.- What kind of security is usually given?***

For residential leases, one or two months' deposit is usually enough; in commercial leases with high rents it

is not uncommon for landlords to request a bank guarantee.

#### ***6.- Who is responsible for repair and maintenance?***

In residential leases it is the landlord's duty to undertake any ordinary and extraordinary repair and maintenance work; this, however, can be negotiated in commercial leases. With regard to improvements, agreements usually do not provide the tenant with any compensation upon termination. It is also common for the agreement to assign the tenant with the responsibility to remove any improvements and leave the property as it was.



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### *7.- When can a tenant terminate the agreement?*

If the agreement is at least one year long, the tenant can serve a 120-day notice after one-third of its duration; in other situations a 60-day notice is enough.

### *8.- Which taxes are applicable?*

- a) Stamp duty (“imposto do selo”);
- b) VAT (“IVA”);
- c) Personal income tax (“IRS”) or;
- d) Corporate income tax (“IRC”).

Stamp duty is levied at a 10% rate of the first month’s rent and is paid by the landlord. Leases are exempt from VAT, but it can be levied (at a present rate of 23%) when both parties are VAT taxable persons in Portugal and the landlord waives the exemption. In such case stamp duty is not applicable. If the landlord is an individual, any lease income will be subject to a

levy in discharge of 28%. There is also withholding tax charged at 25% which serves as payment on account.

Corporate landlords will be taxed at a current rate of 23%<sup>1</sup> plus a municipal surtax between 0% and 1.5%. A state surtax is applicable with variable rates:

- i) 3% for profits between € 1,500,000 and € 7,500,000;
- ii) 5% for profits between € 7,500,000 and € 35,000,000;
- iii) 7% for profits in excess of € 35,000,000. There is also withholding tax charged at 25% which serves as payment on account.

For further information please contact our office in Lisbon:

**Tel:** (351) 21 355 01 87

**E-mail:** [lisboa@avinalabogados.com](mailto:lisboa@avinalabogados.com)

<sup>1</sup> Smes will be taxed at a rate of 17% for the first € 15,000 of taxable income.

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