



# STATE BUDGET FOR 2021

Most relevant measures for the  
real estate sector



**PINTO RIBEIRO**  
ADVOGADOS



## **IMT (REAL ESTATE TRANSFER TAX) – ACQUISITIONS OF SHAREHOLDINGS**

Until 2020, only the acquisition of shares in private limited companies would be subject to IMT if any of the shareholders would have at least 75% of the share capital or if the number of shareholders would be reduced to two married persons or in a non marital partnership.

Under the previous law, IMT was due whenever the private limited company owned real estate. The type of real estate or its value in the company's asset was irrelevant.

### **Extension to Public Limited Companies**

With the entry into force of the State Budget for 2021 the incidence of this tax is extended to public limited companies, maintaining the previous rules of 75% and the reduction of shareholders.

### **Limitation**

The scope of application of the new rule is, however, limited to companies whose assets value results, directly or indirectly, in more than 50% of real estate located in the national territory, considering the balance sheet value or, if higher, the tax registration value.

### **Exclusion**

Companies with real estate directly allocated to an agricultural, industrial or commercial activity, excluding resale of real estate.



**The incidence of this tax is extended to public limited companies, maintaining the previous rule of 75% and the reduction of shareholders.**



## **IMI (REAL ESTATE MUNICIPAL TAX) AND IMT (REAL ESTATE TRANSFER TAX) – INDIRECT INVESTMENTS IN OFFSHORES**

IMI – Extension of the 7.5% rate

IMT – Extension of the 10% rate

Until 2020, the higher fixed rates of 7.5% (IMI) and 10% (IMT) were only applied when the owner/acquirer (direct investment) was tax resident in a country, territory or region subject to a more favourable tax regime, as listed in the Portuguese blacklist, established by Ministerial Order no. 150/2004 of 13 February.

With the entry into force of the State Budget for 2021 the fixed rates of 7.5% (IMI) and 10% (IMT) will also be applied to owner/buyer entities that are dominated or controlled, directly or indirectly, by an entity with tax domicile in a country, territory, or region subject to a more favourable tax regime, included in the aforementioned list (direct investment).

This regime only applies to companies, so individuals (even if they are tax resident in offshores) follow the general regime of taxation in IMI and IMT.



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## **IRS - CAPITAL GAINS IN CASE OF ALLOCATION OF REAL ESTATE TO PRIVATE USE OR TO BUSINESS ACTIVITY AND SUBSEQUENT SALE TO A THIRD PARTY**

Until 2020 it was expected that capital gains would be calculated either by the allocation of the property to the business activity (1st moment), taxed under the rules of Category G (only 50%), or by the private allocation of real estate previously used in a business activity (2nd moment), taxed according to the rules of Category B (taxed at 95%) and the subsequent capital gain on the sale to a third party.

**“ From 2021 onwards, capital gains on real estate, which have been allocated to the business activity, will be taxed under the terms of (i) Category B if the alienation occurs before 3 years have elapsed after the private allocation of the real estate or (ii) Category G, after 3 years have elapsed.**

On a transitional basis, the new taxation regime applies to capital gains that are suspended from taxation (i.e. the first capital gain of the year of allocation to the business activity).

The transitional regime also indicates that taxpayers who have, on January 1, 2021, real estate that is allocated to business and professional activity may opt for the previous regime. Therefore, they must indicate this option in the periodic income declaration for the year of 2021 (i.e., in 2022), as well as identify the real estate that is allocated to the business and professional activity and the date of its allocation.



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