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<b>CORPORATE INCOME TAX</b>	
Non-licensed companies	14.7%
Companies incorporated between 2007 and 2014 (Regime III)	Tax rates from 3% to 5% until 2020
Companies incorporated from 1st January 2015 (Regime IV)	5% tax rate until 2027
Trusts	Exempt
SGPS	Foreign shareholdings: 5% Interest and service income: 14.7%
Offshore companies	Exempt
<b>OTHER TAXES</b>	
Real estate tax	0.3% - 0.8% + municipal tax (from 0.4% to 1%)
Real estate transfer tax	5% - 6.5%
VAT	22%
Stamp duty	Nil, unless recipient or intermediary is resident in Portugal
Withholding taxes	Residents                      Non-residents
Dividends	25%                          25%/35%
Interest	25%                          25%/35%
Royalties	15%                          25%/35%
	IBCs are exempt from income and property transfer taxes, withholding taxes and customs duties
<b>REGISTRATION TIME</b>	2-4 days for shelf companies; 4-6 weeks for other companies
<b>REGISTRATION COSTS</b>	€ 500 + € 5,000/€ 7,000 professional costs
<b>ADVANCE RULINGS</b>	Not allowed
<b>EXCHANGE CONTROLS</b>	Not applied
<b>BANK SECRECY</b>	Applied, except in case of suspected criminal activity or fiscal except in cases of suspected criminal activity or tax evasion
<b>LEGAL SYSTEM</b>	Portugal Civil Law
<b>BILATERAL TAX AGREEMENTS</b>	Signed with over 70 countries

## **1- GENERAL INFORMATION**

Madeira is an autonomous region within Portugal, having its own government and legislative assembly. The power of this assembly, however, cannot override decisions of the central government in Lisbon or political unity with Portugal.

### **I. Madeira free trade zone**

Portugal is part of the European Union. The Madeira IBC legislation has been approved by the Portuguese central Government in Lisbon and by the European Commission in Brussels.

Profits tax of 5% applies until 31 December 2027 for companies that are granted licences to operate within the Madeira IBC after 1 January 2015 but before 31 December 2021 (Regime IV).

Three previous tax regimes applied in Madeira:

- The “*old regime*” (*Regime I*), which applied to companies established in the Madeira IBC before 1 January 2001, allowed an exemption from corporate tax (including capital gains) and withholding tax until 2011;
- The “*2003–2006 regime*” (*Regime II*), which applied to companies licensed to operate within the Madeira IBC between 2003 and 2006, under which the tax rates applied were between 1% and 3%;
- The “*2007–2014 regime*” (*Regime III*), which applied to companies licensed to operate within the Madeira IBC between 2007 and 2014, under which the tax rates applied were between 3% and 5%.

### **II- Legal system**

Madeira is an autonomous region with a jurisdiction that originates from the Napoleonic Code, including in matters of succession.

### **III- Currency**

Euro is the official currency.

### **IV- Economic policy**

Madeira’s main sources of income are derived from its tourism, wine industry and agricultural products. To widen the source of income, the development of Madeira as an international business centre is now a reality, having been established with the support of the European Union.

### **V- Financial institutions and bank secrecy**

Most Portuguese banks have offices in Madeira and, as a result of IBC facilities, some international banks are operating within the framework of this legislation and provide all banking facilities.

It is no longer possible to incorporate new banks or other financial institutions in the Madeira IBC.

Specific legislation governs bank secrecy and there are both civil and criminal penalties for those convicted of breaches of confidentiality.

Information can, however, be disclosed through the courts by bank officials and others in cases of criminal proceedings against specific individual customers, or in the event of there being a connection with drug dealing or the handling of funds arising from other criminal activities.

### **VI- Exchange controls**

Exchange control in Portugal and on the island of Madeira is regulated by the Portuguese Central Bank which, together with the Finance Ministry, comprises the country’s monetary authority.

There are reporting requirements for outward investments in foreign currencies made by Portuguese residents, but these exist for statistical purposes only.

## 2- MADEIRA COMPANIES AND TRUSTS

BUSINESS ENTITY	MAIN TRAITS	FORMATION	GOVERNANCE
<i>Private limited liability companies (LDA)</i>	At least 2 partners are required to set up a limited liability company. Limited Liability Companies must have a minimum paid-up share capital of € 5,000. The capital is divided into shares. A private limited liability company must appoint one or more directors		An annual general meeting is required and must be held within the first three months following the end of the company's accounting year. The agenda must include the approval of the accounts for the previous financial year. Meetings are usually held at the head office of the company.
<i>Stock corporations (SA)</i>	The joint stock company (SA) must have a minimum capital of € 50,000. The shares can be registered or bearer with the exception of the subscriber's shares, which must be registered. A stock corporation must have: <ul style="list-style-type: none"> <li>a board of directors (Conselho de Administração) appointed for a fixed period of time (it is possible for a stock corporation to have a sole director, provided the share capital does not exceed EUR200,000), and</li> <li>an audit committee (Conselho Fiscal or a single official auditor — Revisor Oficial de contas). This committee must have between three and five members, one of whom must be a Revisor Oficial de Contas.</li> </ul>		An annual general meeting is required and must be held within the first three months following the end of the company's accounting year. The agenda must include the approval of the accounts for the previous financial year. Meetings are usually held at the head office of the company.
<i>Trusts</i>	Madeira, being an island operating under Portuguese law, does not recognize the trust. Legislation has been enacted within the Madeira IBC to provide for the creation of trusts with trustees in Madeira in order to attract investments. Trusts created in Madeira are entitled only to carry out offshore activities, thus not generating any interference with the Portuguese law system. Only corporations may be appointed as trustees. These corporate bodies can either be companies formed in Madeira under the international business centre legislation, or branches of existing institutions that have as their object the management and/or administration of offshore trusts. Offshore fiduciary companies and branches must be stock corporations, with a minimum capital of € 99,759.58, represented for at least 51% by nominative shares.		The income of the trust must not be derived from investments in Portugal, nor may the trust and the beneficiaries be paid from local income, with the exception of deposits placed with offshore financial institutions of the Madeira IBC. The trust may not own immovable property situated in Portugal.

### I- Introduction

All companies incorporated under the Madeira IBC legislation are incorporated under the same regulations and principles as any other Portuguese company.

All companies must be registered with the Funchal commercial register.

Application for company name approval is made through a central registry in Lisbon and is usually obtained in 7 to 10 days.

Companies must be registered through a notarial deed authenticated by a notary.

Before the notarial deed is defined, an authorization must be obtained from the National Registry of Lisbon to get permission to use the company name. The notarial deed is then published in the Official Gazette and in another local newspaper.

A licence to operate in the Madeira IBC is then obtained through “Sociedade de Desenvolvimento da Madeira” (SDM — the Madeira Development Company). The licence application must include the following information:

- company name and address or registered office of the applicant
- activity to which the application relates
- indication of the number of jobs to be created
- total value of investment
- statistical classification of the economic activity (NACE code) to be carried out.

The SDM will then issue a licence authorising the company to operate within the scope of the Madeira IBC.

Under Portuguese company law, the promoters can opt for any of the following legal entities:

- private limited liability company (sociedade por quotas)
- stock corporation (sociedade anonima)
- general partnership (sociedades em nome colectivo)
- limited partnership (sociedade em comandita), or
- sole trader.

The most commonly used type of legal entities are the private limited liability company and the stock corporation.

## **II- Limited liability companies and stock corporations**

### **Capitalisation**

- A. Private limited liability companies (recognised by “Lda” or “Limitada” after the name) have a minimum paid-up share capital requirement of €5,000 and may be incorporated with a single shareholder. The capital is divided into quotas and the value of each quota can vary, but must not be less than €100. Quotas are assigned to the quota holder in a contract or in the public deed.
- B. The stock corporation (recognised by “SA” or “Sociedade anonima” after the name) has a minimum requirement for a paid-up capital of €50,000. All the shares must have the same nominative value with a minimum requirement of a cent. The shares can be registered as bearer shares with the exception of the subscribers’ shares which themselves must be registered.

Both private limited liability companies and stock corporations have a requirement to transfer an amount to a legal reserve.

In the case of a private limited liability company, this is an amount equal to 5% of the annual profits of the company until it reaches 20% of the capital or at least €2,500, whichever is greater.

The capital may be increased by a decision of the shareholders. The resolution must be registered. The reduction of capital depends on a resolution of the shareholders. The decision must be registered provided the financial situation of the company allows.

Portuguese company law provides for immediate winding up by shareholders’ resolution or by court decision. Immediate winding up is carried out in accordance with the law and the company’s articles of association by simple verification of the facts leading to it.

According to the provisions of the law, immediate winding up may take place under the following circumstances:

- on expiry of a term fixed in the articles of association
- by resolution of the company’s members
- on the complete attainment of the company’s objectives
- if the company’s objectives are subsequently found to be illegal, or
- on the declaration of the company’s insolvency.

Winding up by court decision occurs under the following circumstances:

- whenever, for a period exceeding one year, the number of shareholders is less than the number required by law, except when one of the shareholders is the State or an entity so entitled by the law
- where it is impossible to carry out the activity envisaged in the objectives clause of the company's articles of association
- when the company has not traded for 2 consecutive years, or
- when the company carries out an activity not permitted in its objectives clause.

### **Shares and shareholders**

In a limited liability company (Lda), a quota holder is a person who holds a participation in the share capital and whose name is obligatorily registered with the Commercial Registry.

In a stock corporation (SA), shareholders are those who subscribe and hold shares, either nominative or bearer, in the company and who do not have to be registered with the Commercial Registry.

It is possible, however, to incorporate "unipersonal" Ldas and/or SAs, ie they may have only one shareholder.

Shareholders may be individuals or companies, residents or non-residents of Portugal.

The share certificates are issued by the company, must be signed by one or more directors and registered in the share register, which must be kept at the company's head office.

The transfer of nominative shares is effected by written declaration of the owner to the company. The transfer of bearer shares is effected by physical delivery and registration is not necessary. The transfer of quotas is effected either by public deed or by private quota transfers' agreement, which must be registered at the Commercial Registry.

In an Lda, the liability of quota holders is limited to the amount of their individual quotas, but they are liable to pay up all the capital contributions envisaged in the articles of association of the company.

In an SA, the liability of the members is limited to the shares that they have subscribed.

Shareholders and/or quota holders have the following rights:

- to participate in the profits of the company
- to participate in the resolutions/meetings and to obtain information on the company's businesses, and
- to be appointed for the administration and auditing in accordance with the law and the company's articles of association.

An annual general meeting is required for both Ldas and SAs and must be held within the first 3 months following the end of the company's accounting year. The agenda must include the approval of the accounts for the previous financial year. Meetings are usually held at the head office of the company.

### **Management**

A private limited liability company (Lda) must appoint one or more directors. A director (Gerente) must be an individual. Directors are appointed for an indefinite period, unless otherwise stated in the articles of association of the company or confirmed by a resolution of the quota holders.

A stock corporation must have at least 2 boards:

- a board of directors (Conselho de Administração) appointed for a fixed period of time (it is possible for a stock corporation to have a sole director, provided the share capital does not exceed €200,000), and
- an audit committee (Conselho Fiscal or a single official auditor — Revisor Oficial de contas). This committee must have between 3 and 5 members, one of whom must be a Revisor Oficial de Contas.

Non-resident directors can be appointed, but in the event that all the directors are non-resident, a local representative for the company must be appointed.

### **Accounting and audit requirements**

Books of accounts must be kept in the required legal format and maintained at the company's legal office in Madeira.

The accounts must be prepared according to the Portuguese official accounting plan (Plano Oficial de Contas).

The financial statements must be completed on an annual basis and presented to the tax authorities with the annual corporate tax return.

In the case of a private limited liability company (Lda), there are no requirements to have the accounts submitted for audit unless the company itself meets any 2 of the following criteria for 2 consecutive years:

1. company assets exceed €1.5 million
2. the company employs more than 50 employees, and
3. the total of net sales and other income is in excess of €3 million.

### **Migration of companies**

Under the current Portuguese legislation, it is possible to transfer the legal registration of the company out of Portugal and into a new jurisdiction provided that the new jurisdiction has suitable receptive legislation. A resolution to transfer the seat of the company to another jurisdiction must be passed with the approval of at least 75% of the shareholders voting in favour of such resolution.

The same rule applies to companies that intend to redomicile in Portugal, provided the country of origin accepts the redomiciliation.

### **III – Holding Companies**

The use of holding or investment companies situated in Madeira is an established international tax planning method for funding multinational operations.

The ownership of foreign activities can be centralised in a Madeira holding company which either has offshore operating branches or owns the shares of overseas subsidiaries conducting active trade and business in other countries.

The Madeira holding company serves as the clearing house for profits from foreign operations and pays a corporate tax rate of 5% on the income derived from foreign shareholdings.

Interest and service income do not qualify and are subject to the normal tax rate (14.7% for 2023).

## **3- TAXATION SYSTEM**

### **I- Taxation of resident companies**

Resident companies not licensed under the Madeira IBC are subject to corporate tax at a rate of 14.7% for 2023.

Companies that were licensed under the Madeira IBC from 1 January 2015 to 31 December 2021 (Regime IV) are subject to corporate tax at a rate of 5% and to capital gains tax at a rate of 5%, as long as they are not eligible for the participation exemption on capital gains.

Companies licensed under the Madeira IBC are exempt from the following taxes: property transfer tax, investment income tax, stamp duty tax, withholding taxes on dividends or interest, whenever connected to activities carried on within the IBC scope, local taxes and levies, and donations and inheritance taxes.

Distributions of income by IBC companies are subject to withholding tax.

Local employees are liable to income tax and social security payments and the employing company is liable to social security payments in respect of employees within Portugal.

All entities licensed under Madeira IBC legislation must comply with all tax obligations.



The reduced tax rates are available until 31 December 2027, subject to requirements concerning job creation, and the type of business activity. The reduced tax rates apply to a maximum limit of taxable income, depending on the number of jobs created:

<i>Maximum taxable income for reduced rate €/millions</i>	<i>Number of jobs created</i>
2.73	1 to 2
3.55	3 to 5
21.87	6 to 30
35.54	31 to 50
54.68	51 to 100
205.5	Over 100

There are also restrictions on the activities that are allowed within the Madeira IBC. Companies can carry out industrial, commercial, maritime transport and services related activities. Nevertheless, licensed companies cannot carry out the activity of financial and insurance brokerage, or activities designated as “intra-group” services, namely coordination, treasury and distribution centres.

Under the current patent box regime, income from patents and other industrial property rights, and income from computer software and related rights, are taxed at 50% of the normal standard income tax rate (14.7% for 2023; 5% for companies licensed under the IBC regime), subject to certain conditions.

Madeira companies must submit an annual corporate tax return, an annual corporate information (IES) and quarterly or monthly VAT returns.

#### **Tax rates**

Reduced tax rates apply to companies within the Madeira IBC.

Madeira companies without a licence to operate in the Madeira IBC or performing activities that are not within the scope of their object are subject to a corporate tax rate of 14.7% for 2023 (for 2021 and 2022), plus a state surtax from 2.1% to 6.3%, according to the taxable income.

Capital gains derived from the sale of shareholdings in Portuguese companies, including Madeira companies, are subject to capital gains tax in Portugal only in certain circumstances. The tax can be avoided if there is a double taxation treaty between the country of the seller and Portugal, which contains a clause which restricts the taxation of capital gains in the country of the seller.

#### **Withholding taxes**

Withholding tax is charged at the following rates:

	<i>Residents %</i>	<i>Non-residents %</i>	<i>Madeira company shareholders %</i>
Dividends	25	25/35	25/35
Royalties	15	25/35	25/35
Interest	25	25/35	25/35

Before 2012, companies within the Madeira IBC were not required to withhold tax on dividends, interest or royalties.

## **II- Other taxes**

### **VAT**

The normal VAT rate in mainland Portugal is 23%, and in Madeira it is 22%.

### **Annual municipal immovable property tax and municipal immovable property transfer tax**

Immovable property is taxed on an annual basis on the net worth value of the property at a rate ranging from 0.3% to 0.8%.

Starting from January 1, 2017, an additional municipal tax (from 0.4% to 1%) is applied to properties worth more than € 600,000, with the exception of hotels and buildings for industrial use.

A transfer of immovable property is subject to a transfer tax on the acquisition value. The general rates are 5% for non-urban property and 6.5% for urban property. Madeira companies are exempt from this tax if the property is to be used for the head office of the company.

### **Social security contributions**

The employer pays social security contributions of 23.75%. The employees must contribute 11% of their salaries.

### **Stamp tax**

Madeira companies are exempt from stamp tax levied on all books, papers, contracts, transactions, acts and products covered by the general stamp tax table unless they have as their recipients or intermediaries entities resident in Portuguese territory.

### **Energy tax**

Madeira companies are exempt from paying the special contribution based on the value of assets used for energy production that is levied on the energy sector from 2014.

### **Capital gains on the sale of the Madeira company itself**

Capital gains derived from the sale of shareholdings in Portuguese companies, including Madeira companies, are subject to capital gains tax in Portugal only in the following cases:

- when the seller is more than 25% owned directly or indirectly by a resident
- when the seller is a non-resident entity without a permanent establishment in Portugal but is considered to be a resident of a state or territory included in a special list (tax havens) approved by the Portuguese Ministry of Finance, or
- when the assets of the company which are sold consist mostly of immovable property located within the Portuguese territory.

The capital gains tax can be avoided if there is a double taxation treaty between the country of the seller and Portugal, which contains a clause which restricts the taxation of capital gains in the country of the seller.

### **Special incentives and grants**

The Portuguese Government has introduced a series of incentives to attract foreign investment. For example, until 31 December 2023, qualifying investments may benefit from a tax credit on projects to create jobs, from exemptions or reductions of immovable property transfer tax on buildings purchased that are part of the investment plan and a stamp duty exemption in respect of acts and contracts relating to the investment project.

### **Anti-avoidance**

The tax authority has the power to disregard a transaction (or series of transactions) if the main purpose, or one of the main purposes, of the transaction/s is to obtain a tax advantage.

## **III- Taxation of resident trusts**

Neither trading income nor investment income of an offshore trust (ie a trust whose property is located and income is derived from outside Portugal) is taxable. Trust income that is accrued, derived or received in Portugal is taxable. A trust is not subject to tax on its own as an entity, but the trustees are taxed on the income.

## **IV- Taxation of foreign income**

Companies established under the Madeira IBC are subject to corporate tax at reduced rates on any income derived from outside Portugal.

Foreign income received from abroad by companies licensed to operate in the Madeira IBC is included in the taxable income of the company, which is subject to corporate tax at a rate of 5%, provided certain requirements are met.

Gains from both resident and foreign sources may benefit from the capital gains participation exemption.

Companies established under the Madeira IBC are permitted to take advantage of almost all the tax treaties entered into by Portugal.

#### **V- Madeira tax regime applicable to companies licensed before 2001 (Regime I).**

Until 31 December 2012, Madeira companies established in the Madeira IBC up to 31 December 2000 were subject to the “old” tax regime

#### **VI- 2003–2006 Madeira tax regime (Regime II)**

Until 31 December 2011, Madeira companies established in the Madeira IBC from the years 2003 to 2006 were subject to the following corporate tax rates: 1% in 2003 and 2004, 2% in 2005 and 2006, and 3% from 2007 to 2011.

#### **VII- 2007–2014 Madeira tax regime (Regime III)**

Until 31 December 2020, Madeira companies established in the Madeira IBC from the years 2007 to 2014 were subject to the following corporate tax rates: 3% from 2007 to 2009, 4% from 2010 to 2012, and 5% from 2013 to 2020.

### **4- OFFSHORE COMPANIES**

It is important to differentiate between participation in Portuguese ventures and participations in companies established under the Madeira IBC.

Madeira companies are, for all purposes, Portuguese companies incorporated and regulated under Portuguese company law. The main difference is that Madeira companies must obtain a licence to operate in one of the four sectors of the IBC.

Payments made by Madeira IBC companies to non-resident shareholders are subject to Portuguese withholding tax, which may be reduced by an applicable tax treaty or EU Directive or the participation exemption.

#### **I- Madeira holding companies (SGPS)**

The use of holding or investment companies situated in Madeira is an established international tax planning method for funding multinational operations.

The ownership of foreign activities can be centralised in a Madeira holding company which serves as the clearing house for profits from foreign operations, accumulating profits, reinvesting and expanding in new countries. This company pays a corporate tax rate of 5% on the income derived from foreign shareholdings.

Whether a Madeira holding company should have branches or subsidiaries in third countries is generally determined by weighing the commercial and taxation consequences of each of these alternatives in the light of conditions prevailing in the third country.

Interest and service income do not qualify and are subject to the normal tax rate (14.7% for 2023).

#### **II- Offshore trusts**

Madeira, as an island operating under Portuguese law, is essentially a civil law jurisdiction. The trust is, therefore, unknown to Portuguese law.

Legislation has, however, been enacted within the Madeira IBC to provide for the creation of trusts with trustees in Madeira in order to attract investments from common law jurisdictions.

Trusts created in Madeira are entitled only to carry out offshore activities, thus not generating any interference with the Portuguese law system.

### **Incorporation**

The act of constitution of a trust must be in writing and signed by the settlor, or by a trustee representing the settlor. The trust deed must contain the so-called “three certainties” — certainty of intention, subject-matter and beneficiaries.

The trust deed must also contain, among other requisites:

- the name and identification of the trust
- the full identity of the settlor, trustee and beneficiary. The identity of the beneficiaries or a category thereof may be effected by means of a statement of circumstances leading to their identity
- the identification, description and distribution of the trust assets
- the express declaration of intention to constitute a trust and the designation of the law that will apply to the trust
- the rights and obligations between trustees, in the event of there being more than one
- the relationship between trustees and beneficiaries, including the personal responsibility of the trustee in relation to the beneficiaries, and
- the rules and restrictions, if any, relating to income accumulation in the trust, as well as the power of the trustee in regard to investment and income accumulation.

### **Capital requirements**

There are no capital requirements for an offshore trust.

### **Requirements as to trustees and beneficiaries**

Only corporations may be appointed as trustees. These corporate bodies can either be companies formed in Madeira under the international business centre legislation, or branches of existing institutions that have as their object the management and/or administration of offshore trusts. Offshore trust companies and branches must be stock corporations (sociedades anónimas). The minimum share capital of trust corporations is €99,759.58 and not less than 51% of the share capital is to be represented by nominative shares.

The process of nomination, exoneration and removal of the trustee, as well as the necessary requirements for the trustee to exercise their functions and transmission of the same, must be disclosed in the trust deed, together with the full identity of the beneficiaries. The beneficiaries may not be residents of Portugal, but offshore entities licensed to operate with the Madeira IBC are allowed. The trust deed may provide for the addition or removal of any beneficiary.

The beneficiaries may not be residents of Portugal, but offshore entities licensed to operate with the Madeira IBC are allowed. The trust deed may provide for the addition or removal of any beneficiary.

The trust may not own immovable property situated in Portugal.

Neither the settlor nor the beneficiary may be residents of Portugal.

### **Accounting and auditing requirements**

Audit certificates and audit accounts must be submitted annually to the regional Government of Madeira.

### **Migration**

In the trust deed, the settlor may reserve the right to substitute the law that shall govern the trust or any of its elements that may be separated, by another law of a different jurisdiction. So, trusts originally created in, or subsequently transferred to, Madeira may freely emigrate and no prior authorisation is required.

### **Secrecy provisions and disclosure requirements**

The names of the settlor and the beneficiaries are subject to secrecy and may only be divulged under the requirements of a court order.

### **Taxation**

Each and every trust and offshore branches are subject to the payment of an application fee of €750 prior to its creation and an annual licence fee of €2,000.

Offshore trust companies and branches are also subject to the payment of an application fee of €750 and an annual licence fee of €2,000.

There are no exchange control restrictions.

Trusts and beneficiaries are not subject to taxation in Madeira. Offshore trust companies licensed to operate within the IBC are subject to the rules of the Madeira tax regime.

### **III- Offshore finance companies**

Up to 31 December 2000, international and Portuguese banks could be licensed in Madeira. However, this is no longer possible. They could also establish offshore branches in Madeira under the IBC. External financial branches could engage in banking activities with non-residents only, while international financial branches could engage in activities with both residents and non-residents. Offshore banks and financial branches whose licences to operate were granted before 31 December 2000 enjoyed a 0% corporation tax rate until 31 December 2011, and were exempt from withholding tax.

### **IV- Offshore licensing companies**

Madeira companies may hold patents, licences and trademarks, and earn royalties from granting these. Patents, licences and trademarks can be granted to affiliated (if not deemed as intra-group services for the purposes of the new regime) or non-affiliated companies. A Madeira company can also hold patents as assets. The royalties received by the Madeira licensor of rights are subject to a reduced tax rate of 5% for the Madeira company beneficiary, provided some requirements are met. Taxes paid on income from royalties are usually deductible in the jurisdiction where the subsidiary uses such industrial property (eg patents, copyright and trademarks).

Giving a Madeira licensing company the necessary rights to license industrial property often requires the transfer of patent or other rights from the home country. This transfer should not require any consent.

Portugal recognises interests, patents, copyrights and trademarks.

### **V- Offshore trading companies**

A Madeira company is often used as a trading company. The Madeira trading company can serve to optimise the tax burden of multinational groups.

The use of a Madeira company as a trading company represents an advantage if it is licensed to operate in the Madeira IBC because the commercial margins, profits and dividends of such companies are subject to a low corporate tax rate.

No special regulations or taxes apply to trading companies operating under the Madeira IBC legislation.

Advantages can be obtained by securing trading through a company incorporated in Portugal and licensed under the Madeira IBC legislation.

Companies whose activities are of an industrial or commercial nature (in particular, manufacturing, assembling, packing or merely warehousing of goods) can be offered particular advantages in Madeira, provided that these activities or the goods produced or handled do not present any threat to national security, public health or the natural environment.

According to the IBC tax regime, companies that are licensed to operate in the Madeira IBC and engage in industrial activity benefit from the low corporate tax rate, and also have access to an additional reduction of 50% of the corporate tax due if they fulfil at least two of the following conditions:

- contribute to the modernisation of the regional economy through technological innovation

- contribute to the diversification of the regional economy
- contribute to the economy with the employment of highly qualified human resources
- contribute to the improvement of environmental conditions, or
- create at least 15 jobs which will be maintained for a period of at least five years.

#### **VI- Offshore administration companies**

Companies licensed to operate in the Madeira IBC are not allowed to undertake intra-group services (such as coordination centres, treasury centres and distribution).

Only companies licensed to operate in the Madeira IBC prior to 31 December 2000 (and incorporated before 2004) were permitted to act as administration companies under the IBC until 31 December 2011.

#### **VII- Offshore shipping companies**

The Madeira International Shipping Register (MAR) was created as a second register, offering favourable and competitive conditions and assuring good surveillance of all vessels registered there. All vessels registered with the MAR fly the Portuguese flag. It is expressly provided that all international conventions ratified by Portugal form part of the MAR and must be complied with by the MAR.

Commercial vessels may be registered in the MAR. Companies, forms of partnerships, branches, agencies and legal representatives may apply for a registration of a vessel.

Control surveys conducted for the purpose of issuing certificates are to be undertaken by MAR surveyors or by surveyors of recognised classification societies. Those classification societies authorised to undertake surveys on behalf of the MAR are:

- Lloyds Registry of Shipping (LRS)
- Bureau Veritas (BV)
- Det Norske Veritas (DNV)
- Registro Italiano Navale (RINA)
- American Bureau of Shipping (ABS)
- Germanischer Lloyd (GL)
- Rinave Portuguesa (RINAVE)
- Nippon Kaiji Kyokai ((NKK).

All ships registered in the MAR must have a certificate that ensures the qualification of all crew on board.

Companies, partnerships, branches, agencies and legal representatives may apply to register a vessel used for the transportation of persons, goods and yachts, provided that transportation is not carried out between Portuguese ports.

#### **VIII- Financing an offshore company**

A Madeira company may obtain finance either from local offshore financial branches or from abroad in the form of a loan or with share capital.

Where the companies are licensed under the Madeira IBC legislation, no restrictions are imposed on the repatriation of funds, whether income or capital.

Withholding taxes apply as in mainland Portugal. However, rates may be reduced under treaties or EU Directives, or the participation exemption.

There are no restrictions on payments of dividends from Madeira by companies established under the Madeira IBC legislation (although withholding tax may apply). Redeemable shares are permitted and no taxes are levied on accumulated profits.

For companies licensed under the Madeira IBC legislation, no permission is required to receive funds.

As tax rates are reduced, concessions available to non-Madeira companies may have limited application.

Profits may be accumulated free of tax.

There are no restrictions on the issue or redemption of shares, except to ensure that the company meets the minimum share capital required under Portuguese company law, and legal reserve obligations.

Companies licensed under the Madeira IBC legislation are able to take advantage of Portugal's tax treaties.

#### **Exchange controls**

In Portugal and Madeira, exchange control is regulated by the Portuguese Central Bank.

Madeira banks in possession of offshore licenses can manage accounts of companies located in the IBC and of foreign individuals in any currency and internationally. However, banks in Madeira must also apply all anti-money laundering provisions.

### **5- BILATERAL TAX AGREEMENTS**

Portugal has concluded tax treaties with a number of countries. Non-treaty withholding tax rates apply when they are lower than the rate specified in the treaty.

The participation exemption and the EU Interest and Royalties Directive may apply on remittances to foreign companies, provided that various requirements are met. In those cases, the withholding tax rates may be reduced to zero.

The following rates of withholding tax apply to non-resident entities:

	<i>Dividends</i>	<i>Interest</i>	<i>Royalties</i>
	<i>%</i>	<i>%</i>	<i>%</i>
<i>Non-treaty countries</i>	25/35	25/35	15/35
<i>Treaty countries</i>			
Algeria	10/15	0/15	15
Andorra	5/15	0/10	5
Angola	8/15	0/10	8
Austria	0/15	0/10	0/5/10
Bahrain	10/15	10	5
Barbados	5/15	0/10	5
Belgium	0/15	0/15	0/10
Brazil	10/15	0/15	15
Bulgaria	0/10/15	0/10	0/10
Canada	10/15	0/10	10
Cape Verde	10	0/10	10
Chile	10/15	5/10/15	5/10
China	10	0/10	10
Colombia	10	10	10
Croatia	0/5/10	0/10	0/10
Cuba	0/5/10	10	5
Cyprus	10	10	10
Czech Republic	0/10/15	0/10	0/10
Denmark	0/10	0/10	0/10
Estonia	0/10	0/10	0/10
Ethiopia	5/10	0/10	5
France	0/15	0/10/12	0/5
Georgia	5/10	0/10	5
Germany	0/15	0/15	0/10
Greece	0/15	0/15	0/10
Guinea Bissau	10	0/10	10
Hong Kong	5/10	0/10	5
Hungary	0/10/15	0/10	0/10

Iceland	10/15	0/10	10
India	10/15	0/10	10
Indonesia	10	0/10	10
Ireland	0/15	0/15	0/10
Israel	5/15	10	10
Italy	0/15	0/15	0/12
Ivory Coast	10	0/10	5
Japan	5/10	0/5/10	5
Korea	10/15	0/15	10
Kuwait	5/10	10	10
Latvia	0/10	0/10	0/10
Lithuania	0/10	0/10	0/10
Luxembourg	0/15	0/10/15	0/10
Macao	10	0/10	10
Malta	0/10/15	0/10	0/10
Mexico	10	0/10	10
Moldova	5/10	0/10	8
Montenegro	5/10	0/10	5/10
Morocco	10/15	12	10
Mozambique	10	0/10	10
Netherlands	0/10	0/10	0/10
Norway	5/15	0/10	10
Oman	5/10/15	0/10	8
Pakistan	10/15	0/10	10
Panama	10/15	0/10	10
Peru	10/15	0/10/15	10/15
Poland	0/10/15	0/10	0/10
Qatar	5/10	0/10	10
Romania	0/10/15	0/10	0/10
Russia	10/15	0/10	10
San Marino	10/15	10	10
Sao Tome and Principe	10/15	0/10	10
Saudi Arabia	5/10	0/10	8
Senegal	5/10	10	10
Singapore	0/10	0/10	10
Slovak Republic	0/10/15	5/10	0/10
Slovenia	0/5/15	0/10	0/5
South Africa	10/15	0/10	10
Spain	0/10/15	0/15	0/5
Switzerland	0/5/15	0/10	0/5
Tunisia	15	15	10
Turkey	5/15	0/10/15	10
Ukraine	10/15	0/10	10
United Arab Emirates	5/15	0/10	5
United Kingdom	10/15	10	5
United States	5/15/25	0/10	10
Uruguay	5/10	10	10
Venezuela	10	0/10	10/12
Vietnam	5/10/15	0/10	10

Portugal has signed TIEAs with the following jurisdictions, based on the OECD model convention: Andorra, Anguilla, Antigua and Barbuda, Aruba, Belize, Bermuda, British Virgin Islands, Cayman Islands, Dominica, Gibraltar, Guernsey, Isle of Man, Jersey, Liberia, Montserrat, Saint Kitts and Nevis, Saint Lucia, Spain, Turks and Caicos Islands.