Buying property in Portugal?

Ten steps to ownership – A quick guide for non-residents

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Ten steps to property ownership in Portugal

Step 1: Once you have decided to buy a property, whether it is for rental, investment, holiday or residential use, you should appoint a Lawyer (Advogado) and instruct them to carry out checks on the property details – the legal ownership, registration at the Tax Department (Repartição de Finanças) and Land Registry (Conservatória do Registo Predial), and whether there is a mortgage on, or any debts or seizures registered against, the property. You should confirm in advance precisely what is included in the conveyancing fee in respect of all the steps below and fully describe the property that you understand you are acquiring.

Step 2: Non-residents in Portugal must appoint a Fiscal Representative and obtain a Fiscal Number (Número Fiscal de Contribuinte) from the local tax office. This nine-digit number is used on all documents relating to the purchase of the property and on invoices for items purchased later. It is also needed to open a bank account. Married couples must both obtain a Fiscal Number even if only one of them is to purchase the property, otherwise the Tax Department will not accept payment of the IMT (Imposto Municipal sobre Transmissões) Transfer Tax. You will be charged an initial Registration Fee and an ongoing Annual Fee for continued representation. Fiscal representation can only be cancelled by the appointment of another representative or if you become tax resident in Portugal.

Step 3: A Promissory Contract (Contrato de Promessa de Compra e Venda) setting out the terms agreed between the vendor and the purchaser should be drawn up and signed, and a deposit (usually between 10% and 30% of the purchase price) is paid. This contract stipulates the date by which the Deed must be completed and cannot be broken without one of the parties receiving compensation.

Step 4: Provisional registration of the intended purchase is made at the Land Registry, where any interested party can see the details of the property – location, proprietors, mortgages etc.

Step 5: Your Lawyer will pay the IMT Transfer Tax, based on a variable percentage of the purchase price. Stamp Duty (Imposto de Selo) is also paid at this point. Sovereign can advise on current tax rates.

Step 6: The purchase and sale contract is the Deed (Escritura de Compra e Venda) of the property. This is usually prepared and verified by a Notary (Notário), who identifies the relevant parties agreeing to the purchase / sale of the described property for the price agreed. A further Stamp Duty is payable to the bank if the transaction involves a mortgage.

Step 7: Once the Deed is signed, registration should be completed at the Land Registry. The local Tax Department must also be informed of the change of ownership by submission of a copy of the

Deed together with an IMI (Imposto Municipal sobre Imóveis) Municipal Property Tax return (known as a “Modelo 1” form), which is usually completed by your Lawyer.

Step 8: In the calendar year following the Deed date, the first IMI Municipal Property Tax bill is issued. As your Fiscal Representative, Sovereign will receive all your correspondence from the Tax Department and contact you accordingly. The IMI tax is based on the rateable value of the property as set by the Tax Department. The rateable value is usually less than the purchase value and is sometimes extremely low – so expect a revaluation in due course! IMI bills are generally issued twice a year in April and September, but if there has been a revaluation, additional bills are issued, often retrospectively, to the revaluation year. Sovereign can advise on the current rates of IMI tax.

Step 9: You may wish to rent out your property to provide an income stream to counter expenses. Rental income must be declared in Portugal even if the rentals are administered and funds received abroad, but certain maintenance and repairs expenses can be offset. You must show proper VAT invoices (Facturas) for all such expenses, and these must include your name, Fiscal Number and the property address. As your Fiscal Representative, Sovereign will liaise with you to prepare and submit the tax returns. It may be possible to offset the tax paid in Portugal against tax due in your home country.

Step 10: When you sell your property, your Fiscal Representative must file on your behalf a tax declaration in respect of Capital Gains Tax (Mais Valias), even if there is no gain. Tax is paid on the difference between the purchase and the sale price as seen on the Deeds, minus certain allowable expenses. You may also have to pay Capital Gains Tax in your home country.

Corporate ownership

Properties that are owned by a corporate entity rather than in an individual’s name have certain advantages, principally that if the property is sold by transfer of beneficial ownership of the company, there is no requirement to submit a Capital Gains Tax declaration in Portugal. There may, however, be a liability in your home country. Corporate ownership is especially recommended for higher priced properties and Sovereign can advise you further about this.

Offshore held properties

Many properties in Portugal are still held by companies incorporated in jurisdictions on Portugal’s “blacklist” of “tax havens”, and as such would be subject to higher taxes in Portugal. You should not be put off purchasing such a property, provided that all the necessary tax obligations have been satisfied prior to the transfer to your name. The company can usually be moved to a “white-listed” jurisdiction, thereby retaining the advantages of offshore ownership without increased costs. Ask Sovereign for further clarification.

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