THE TAXATION OF HANSARD EUROPE DAC'S LIFE ASSURANCE POLICIES FOR PORTUGUESE RESIDENTS

HANSARD

Introduction

The purpose of this guide is to give you information about key tax issues relating to Hansard Europe dac's Focus, Europa Wealth Management plan, Flexible Portfolio Bond, Retirement Programme and Hallmark Portfolio Bond products that were available to expatriates of certain European Union countries resident in Portugal. These products are classified as life assurance products under the Portuguese Taxes Act and are provided by way of freedom of services under the European Union life directives. Hansard Europe dac is regulated by the Central Bank of Ireland. This guide is based upon Hansard Europe dac's understanding of the law and current Portuguese tax practice as at September 2020 (both of which are subject to change). This guide does not deal with the inheritance tax position of policyholders, and nor does it deal with the tax issues that may arise for a policyholder that is resident or otherwise taxable in a jurisdiction other than Portugal.

The information contained in this guide is based on our understanding of Irish law, Portuguese laws on personal taxation and Portuguese tax practice as at September 2020. While the company makes every attempt to keep this guide up to date, Hansard Europe dac does not and cannot accept any responsibility or liability for any country's tax or legislative measures which might affect a Hansard Europe dac policy. These laws and practices may be subject to alterations which cannot be foreseen and Hansard Europe dac cannot accept liability for any such alterations.

Hansard Europe dac does not give advice on the tax liabilities or on the suitability or otherwise of its products for individual clients. Hansard Europe dac's products were distributed via independent insurance intermediaries on the basis that the independent insurance intermediary acted on behalf of the client.

The rules relating to this area of taxation can be complex and this information is not intended to offer advice and as such Hansard Europe dac cannot accept any responsibility for any action taken or not taken as a result of the information in this guide.

Ireland tax authorities/regime

As part of our reporting requirements you may be required to complete a Declaration of Residence outside the Republic of Ireland (EO0194O) form to ensure payment can be made without the operation of Irish tax. Your independent insurance intermediary will provide this where necessary or you can obtain the declaration form directly from the company.

Change of residency

Becoming resident in another territory

If you become tax resident in another territory during the term of your policy, the tax rules of that new territory will apply. Please seek proper tax advice from a professional advisor if you do change residency, or require any clarity of your own personal circumstances.

The tax laws and practices may be subject to alterations which cannot be foreseen and Hansard Europe dac cannot accept liability for any such alterations.

Becoming resident in Portugal

If you are newly resident in Portugal, there is a tax beneficial non-habitual resident regime, under the income tax code that may apply to you. You should take appropriate tax advice for these circumstances.

Premium Tax

Premiums on life assurance policies are exempt from stamp duty in Portugal.

However, life policies are subject to insurance premium Taxes in Portugal, as follows:

- Insurance premium charge of 0.048% on the amount of life assurance premium charged to the insurance company;
- Medical emergency charge of 2.5% on the amount of life assurance premium charged – whenever it covers death – and respective complementary coverage.

Therefore, whereas the insurance premium charge applies to all life assurance premium policies, the medical emergency charge applies to those life assurance policies covering death risk.

Income Payments/Withdrawals/Surrender

Withdrawals, income payments and surrender of Hansard Europe dac life assurance policies by Portuguese resident individuals are taxed at a special rate, as provided in the Personal Income Tax (PIT) Code. Hansard Europe dac is a non-resident entity in Portugal, therefore it does not apply Portuguese withholding tax to withdrawals, income payments from and surrender of life assurance policies; instead, the Portuguese resident individuals (policyholders) must include the earnings therefrom in the respective PIT returns, being taxed at a special rate of 28%. Tax is charged on the positive difference between the amounts paid to the policyholder and the premium paid/amounts invested thereby.

Moreover, where at least 35% of the premiums are paid during the first half of the policy, the tax base may be reduced:

- by 1/5th of the taxable income (where income payments/withdrawals/surrender occurs upon 5 years and before reaching 8 years of effectiveness of the policy);
- by 3/5th of the taxable income (where income payments/withdrawals/surrender occurs upon 8 years of effectiveness of the policy).

Furthermore, and in spite of the application of the 28% special rate identified above (with the eventual possibility of reducing the taxable income for purposes of applying such rate), the investor may opt to aggregate the income, in which case: (i) the policyholder must aggregate all the remaining capital income earned in the same tax year; and, (ii) the policyholder shall be subject to the general PIT progressive rates ranging between 14.5% and 48% (for 2020), depending on the total taxable income of the year.

Furthermore, an additional solidarity rate applies as follows: (a) 2.5% on the taxable income exceeding EUR 80.000 and up to EUR 250.000; and, (b) 5% on the taxable income exceeding EUR 250.000 (percentages and limits applicable during 2020 onwards, unless a legislative change occurs).

Please note that the Portuguese PIT Code provides for a specific regime applicable to individuals resident in another EU or EEA Member state, who can – in certain situations – opt to be taxed as if they were Portuguese resident individuals. Please seek proper tax advice from a professional advisor if you believe this regime applies to you.

Inheritance Tax/Gift Tax

Inheritance and gift tax was abolished from 1 January 2004 in Portugal. It was replaced by stamp duty; however life assurance contracts are exempt from stamp duty. Therefore, the beneficiaries of a Hansard Europe dac life assurance policy will not be liable to stamp duty in Portugal on the amounts they receive.

Wealth Tax

There is no wealth tax in Portugal.

Hansard Europe dac's Reporting Responsibilities

Hansard Europe dac engages the services of a tax representative in Portugal in order to ensure it is compliant with tax rules and regulations in Portugal.

In addition, Hansard Europe dac is obliged to comply with The Decree-Law nr.384/2007 and provide the ASF with details of beneficiaries named under a Portuguese life assurance policy. This is an electronic registration, designed to allow a third party access to information on benefits they may be entitled to in the case of the death of the life assured.

Tax Residency

A policyholder is considered resident in Portugal whenever, regarding the year to which the income respects:

a) He/she has spent more than 183 days – continuously or not - within a 12 month period beginning or ending in the relevant tax year: or

b) He/she has spent 183 days or less but have, at any time of the referred 12 month period, accommodation under circumstances that lead to the presumption of an intention to hold and occupy it as a place of habitual residence or abode; or

c) He/she is, on 31 December of such year, a crew member of a ship or aircraft operated by a resident entity; or

d) He/she exercises functions or commissions of public character on behalf of the Portuguese state, abroad; or

e) He/she is a Portuguese national who moves his/her residence to a jurisdiction listed as a tax haven (in accordance with Ministerial Order no. 345-A/2016). This presumption of residency applies in the year of departure and in the following 4 years, unless he/she proves that the change of residence was made for a plausible reason, such as being seconded by an employer for performing a temporary activity in such country.

A day of presence in Portugal includes any day in which the individual stays overnight in the Portuguese territory, meaning that in principle an arrival day counts for this purposes, but a departure day does not.

An individual who meets condition a) or b) referred above becomes resident for tax purposes in Portugal since the first day of his/her permanence in Portugal and non-resident from the day of his/her departure onwards (partial residency concept).

Some exceptions to this partial residency concept may apply, so a case by case analysis is always required.

Important notes

This leaflet should be read in conjunction with the Focus, Europa Wealth Management plan, Flexible Portfolio Bond, Retirement Wealth Management and Hallmark Portfolio Bond product profiles.

The information provided in this leaflet is based on the company's current understanding of legislation. No liability can be accepted for changes in the law, practice or tax regulations of any country.

Hansard Europe dac does not give advice on the suitability or otherwise of its products for individual policyholders. The company's products are available only through independent insurance intermediaries and on the basis that the independent insurance intermediary is, in all respects, acting on behalf of the policyholders.

Hansard Europe dac
Ground Floor, 6 Exchange Place, IFSC, Dublin 1, Republic of Ireland, D01 T9C2
Telephone: +353 1 211 2800 Website: hansard.com
Registered Number: 219727 Registered Office: IFSC, 25/28 North Wall Quay, Dublin 1, Republic of Ireland, D01 H104
Hansard Europe dac is regulated by the Central Bank of Ireland (www.centralbank.ie)