

Villa Rentals and rental declarations.

ALOJAMENTO LOCAL

Please note that this is only intended as a guide... and contains information that may no longer be accurate, and as still, some councils may have their own internal procedures. We strongly suggest that you use a qualified accountant to guide you through the tax declaration process. Without prejudice As at 1 June 2015. I attended the fiscal seminar on the 18th May and there are still a lot of areas that are unclear, even to the professionals. So fine tuning will occur over the next year. ver 010615

DON'T PANIC!..... it is not that difficult, and the tax can usually be as low as 3.75% on the gross rental income. BUT You will have some additional accounting expenses, about 300-600 euros per annum. It is just a pain in the 'anum' to get all the documents etc together, but there are agents who will help you to do this for a set fee...eg West Albufeira based, Linda Cruz. Tel N^o +351 289 592388 and email address as lind@lindacruz.com

All rental income is declared in Portugal in the first instance, and then, in your country of residence, if you must! It is NOT sufficient to declare in the UK, and tax is still due in full here. There are severe fines for non declaration and also for non compliance....for agents and owners!

NB Any tax paid here is usually a tax credit, which will reduce, or often negate, any tax in your country of residence.

To declare rentals on villas and Register you will (only!) need to

- Register the rental activity at the tax office.
- Register the house as 'Alojamento Local' at your local council and get a registo number (BUE)
- Get a complaint book
- Get an officially printed receipt/invoice book.
- Prove that the rental 'agent'/owner pays social security in the UK or EU or is retired.
- Probably (but unclear at the moment) get an Energy Certificate
- Declare all paying clients on the SEF website within 3 days of arrival.

Registering at the tax office

Houses in personal names

The registered owner of the property (ie the name on the deed of purchase and registry document) must register at the tax office, with the activity number CAE 55201 (or 55204)*. An accountant can do this for you. Only one person is required to register the property , but it may be tax beneficial later, to split the rents if in joint names.

Houses in Offshores (may need checking with legal/accounting professionals)

As most offshores do not want to trade actively in Portugal, and incur additional accounting fees, the tax registry can be made in the name of a 'renter' or representative, often by making a 'zero rate' contract ('Contrato de acomodato'), to the beneficial owner/s or representative, so that they can act as the tax payer, on the rents declared. *edited* This may not now apply as the tax office requires 'commercially comparative' contracts, ie not special conditions....

To do the contract , we are told that the nominee directors, can give a power of attorney to a lawyer, account or the beneficial owner, to sign this contract, and act on behalf of the company for this matter. Then make a contract to the 'renter'(usually the beneficial owner), who will assume liability for tax.

NB Normally there will be, or originally have been, a power of attorney for a representative, (usually the lawyer of purchase), to act on some declarations such as telephone, utility or similar contracts. This may have expired, or not be sufficient for this specific purpose. Check if a new P of A is required.

Offshores (eg Delaware) opening a branch in Portugal

Another option is to open a Portuguese nominee company, which may not be as bad as it sounds, as I am told that you can transfer the property, without triggering the Mais Valias/Capital gains tax.... As it can be carried on the balance sheet as a notional loss (I am told)... and the company may have other benefits also. BUT check out the social security position, as the company must have 'nominees' and these are subject to Social security payments. There would, inevitably, also be additional accounting and registration costs for the company, but not excessive, I am assured....by an accountant!

For all above cases....

Once tax registered, you will need a stamped copy of this 'Registo de actividade', showing the number CAE 55201 or 55204 to present to the council.

Social Security in Portugal

The 'renter' of the house, once registered with the tax office, is subject to social security payment monthly depending on the level of activity, fees starting at 125euros/month, as you now have an economic 'activity'. Congratulations. You are exempt for the first Year....but DON'T delay in applying as they take AGES to issue the exemption.

You are exempt, for the first 12 months , AND if you pay social security anywhere in the EU, and can get a certificate to prove this, OR if you are of pensionable age, and can get a letter to this effect from the social security in your area of tax residence. (as all the pensionable ages are different, proof of age is NOT sufficient.)

We have had a lot of problems getting owners to procure these, as the bureaucracy does not like issuing these... and owners have had to persevere, but to save the fee here, it is worth it.

The UK certificate of 'proof of social security payment' used to be form E101, but has now changed to A1 see http://europa.eu/youreurope/citizens/work/work-abroad/posted-workers/index_en.htm . It is only valid for 2 years and MUST be renewed in time, or you will be in default.

Register at your local council

You need a copy of the new 'REGISTO ALOJAMENTO LOCAL' form for your local council. You can get a copy at

http://bde.portaldaempresa.pt/BalcaodoEmpreendedor/resources/pdfforms/form_00000000-0000-0000-1111-000000000006.pdf

or get information on your local contact/council by selecting the required area on the interactive map....

<https://bde.portaldocidadao.pt/evo/services/balcaodoempreendedor/Licenca.aspx?CodLicenca=2637&Parametro=alojamento+local>

LIABILITY

The owner or offshore representative, will need to sign and declare

- A) That they are aware of all the criteria and requirements applicable to the property. **
- B) That the property meets all the legal and regulations regarding rental properties
- C) That the form is correct and accurate.

WATCH OUT>>>>**To ensure that your liability is covered, **you must arrange the following certificates**, although they may not be needed for the council registration, they are required by separate legislation, and anyway, it would be foolish to let the property if it is unsafe, and most are required by prior law anyway. The council have the right to inspect the house, and may ask to see these, so keep copies in the house, originals with the manager. They can be taken to the council when registering, in case.

1. **A Certificate from an electrician** 'Termo de responsabilidade'. Saying that the house is to standard. Eg Earth breakers etc may not have been fitted in older houses.
2. **A gas certificate** showing that any gas appliances are properly fitted vented, and flued.
3. **Smoke detectors**, hard wired if possible, to standard. Hallways and stairways.
4. NB from June 2015 for 10+ 'heads' ie 6 bedroom or more, in one building, villas, you will need extra system, possibly a 'central de alarme de incendio' depending on villa configuration. As per Decreto lei 220/2008 and Portaria 1532/2008 both relating to fire standards.
5. **Fire extinguishers** in accessible/main areas, usually one large one, per house. And a fire blanket in the kitchen, usually with a small extinguisher also. These must be checked and stamped annually.
6. **A sign indicating the local emergency number 112,**
7. **A basic emergency/first aid medical kit.**

Also

8. An upcoming requirement may soon be, that all immersion heaters, solar systems and airconditioners, house water storage tanks, and similar, will need an annual maintenance and clean, certified, to avoid Legionella (legionnaires disease). **Not yet required.**
9. Given the litigious nature of the world, , we suggest that you ensure that your house is up to the Portuguese standard of safety and security, but be aware that you may also be 'judged' under the country of contract...eg UK, which has much more stringent standards of safety... eg balustrade heights, open steps, glass and window standards, pool safety etc. Your Insurance cover for third parties, should reflect this, despite not being required here, and be a minimum 5 million euros, so check your policy. Several UK companies offer good cover now for holiday homes, including tenant damage! Don't forget earthquake, which is a big risk here Eg INTASURE.co.uk and others.

You will additionally need, to present with the council registration form above....

- An original copy of the Power of Attorney if using a representative to act as the 'renter' and taxpayer, or in the case of an offshore.
- The certificate from the Tax Office with CAE 55201 /4
- A simple copy of the identification of the owner, eg passport, or the agent.
- A simple copy of the 'Caderneta Predial', which is the tax register of the property for rateable value.
- If rented annually to an agent, or second party, a copy of the (declared!) rental contract. NB if you rent it yourself to individual clients, this does not apply.
- If rented via an agent, an original declaration from the owner/offshore, showing that the 'agent/renter', (usually the beneficial owner..) is authorised to sublet, if the contract above does not mention this.
- Some councils still require a copy of the 'licenca de ocupacao' or 'licenca de habitacao', ie the habitation license which was part of your deed of purchase.
- For country properties, a planta de localizacao is a good idea, which can be issued at the council.
- A complaints book, issued by the government (Casa da Moeda https://www.incm.pt/portal/loja_detalhe.jsp?codigo=101367) about 20 euros, and registered. NB This should be kept **away from clients**, despite the ASAE rule that says it must be in the property.... (maybe in a locked drawer?), not with the agent or manager, although a sign must be put in the house. Anything written in this book (in triplicate) must be communicated immediately to the authorities, and will cause serious bureaucratic problems...to be produced only under extreme duress...it must not be used as a 'guest book' or for minor whinging by clients..!!!!

The council is obliged to issue the certificate of Alojamento Local within 30 days. (Check the validity, the last ones I have were valid for 8 years.) Also if the regulations are altered, as they were in 2014, additional action may need to be taken.

Eg. if your AL was registered and issued before Aug 2014, you will need to present to the council, a tax registration, which was not originally requested on old applications. The council are obliged (but often don't), to inspect the property within 30 days. If they don't it does not affect the validity of the 'AL' registry. They may inspect later.

NB You should ensure that your property is accurately registered with the correct number of rooms and bathrooms, (and pool?), on both your 'caderneta predial' and the 'registo de propriedade' from the tax office. If you added a room or bathroom, you could be in trouble if it was not approved by planning application.

AL Plaques not obligatory...

They have a plaque ' AL' which may be (no longer obligatory except for Hostals with 10+ rooms) affixed to the exterior of the property. The council will have, or be able to tell you where to get this if you want one. (Personally I don't, as this advertises the property is often empty, or has high value targets for bandits!)

Accounting

(pour a drink, relax, as this is complicated.... Anyway the accountant will deal with it... this is just for your information, and to help you set it up with them ...)

The accountant (you must have one...) will/may charge you for the following, clarify this with him at the outset.

- Fiscal representation (although you can register your UK address and represent yourself at the tax office..)
- Annual fee for tax declaration of IRS
- VAT/IVA registration and quarterly declarations, (for the second year)
- NB the Portuguese tax year is 1Jan – 31 Dec. IRS must be in by April 15th approx.
- He will open an online access with the tax office to deal with your affairs.

There are two accounting systems Simplified and organised.

(There are several avenues to declare rentals. Given the complexity of the law, even the accountants are confused, and I have had several 'lively' discussions about this..... you have to opt for simplified or organised...)More after 13th May seminar...

See the other link on the webpage for a diagram of how this all works.....easier than reading the blurb below...

Simplified regime (fixed deduction no paperwork)

Basically my owners declare the rentals in **Category B** of the IRS tax form

This applies to hoteliers and similar. This applies to short term and holiday rentals.

It gives a fixed 85% write off on gross rental, with tax paid on the rest on a fixed rate of 25% for non residents.

(EG So if you earn 20.000euros gross rent, you will pay tax of 25% , on the remaining 15% 'taxable income'. There are no deductibles under this regime.)

$(\text{Gross Rent} - 85\%) \times 0.25$ This works out usually at about 3.75%. on 20K or total rents, the tax is approx 750 euros.

(As a note, this is so beneficial, it may be a 'loss leader' to get everyone registered, and in future years, the 85% deductible will be lowered, to maximise tax income. When did you last pay 4% tax!)

Category F Deduct only certain expenses eg Rates, Insurance, Capital expenditures, condominium fees. tax paid at 25% (non residents) on remainder.

This applies to annual/long term/residential contract rentals . This may apply if you sign an annual contract with a holiday company.

If your accountant says that you will declare under **Category F**, then you will pay 25% tax on about 85% of the gross rental.... Eg on the example above, 4.250 euros p.a. as opposed to 750euros!

DON'T let him talk you into this category F.....he may say that B doesn't apply to your rentals...even if you rent thru a UK agent on an annual guarantee... tell him to F (off) . (So everyone with holiday rentals, should declare B (all!)... not F (all!) ☺)

Organised regime , full paperwork, deduct all official expenses.

This is almost a company accounting structure, but in an individual name, where all **official** expenses are deducted from the rentals, to reach the taxable amount.

Any official bills, ie with IVA, and the owners/agents NIF/tax number, can be deducted from the gross rental.

This includes all utilities, pool, garden, maid, maintenance, repairs, management fees, etc etc.

If the house is run at a loss, or with minimal profit, this may be an option, but the accountant may charge more, as he has to have, in hand, all the original bills, and do a full accounting and depreciation report, before putting in the annual tax return.

You will be taxed at 25% of the net profit.

However the UK taxman is less rigorous, and you may be able to write off further 'non official' bills, against any UK tax, if you can prove payment, eg via a bank statement and 'soft' receipts from maids, gardeners, pool, etc....

IVA / VAT 6% on direct rental Income.

On any activity over 10.000euros p.a. IVA comes into force.(ridiculously low I know).....

This is not to be feared, as actually many owners will pay no IVA, and in fact many will have an annual credit. BUT.....

After a one year grace period, if your gross rentals are over 10K, you will be obliged to register for IVA. This is to your accountants benefit, as he has to make quarterly declarations, and will inevitably, charge you more.

You will then have to provide him with a list of the rentals, dates, clients name, and the amounts received, and originals of all **official** bills paid (these must, be numbered, in duplicate, IVA amount and have the owners/agents name and NIF/tax number, on them).

These bills include utilities, maids or cleaning, laundry, gardeners, pool contracts, building works, replacement or new equipment, maintenance, painting.

Most of these have IVA at 23%, so if you are running your house 'legally' and have bills for everything, then the IVA is deductible.

Most of my houses, now end up with more IVA paid, than received from rentals...that assumes that you can get your 'illegal' maid, gardener and poolman, or manager, to give you official (green/selfemployed) receipts. OK...not easy, but get two out of the three at least! Warning! if you 'employ' anyone, on general contract, you may be subject to expensive social security/bonuses etc. There is a 'domestic' social security system for minimal hours which is cheaper, and applies to 'domestic' staff who do not have contracts, but work on an 'hourly basis. But this also means you cant offset very much expenses, if at all.

NB If you have a tax credit here, it will not be refunded, as in UK. You just carry it forward. (Ask your accountant to explain, it is too complicated...but basically, there were so many frauds, that to get a refund, you could face an automatic audit, at your expense...).

IVA at 23% on annual rental contracts.

Again this is subject to discussion/clarification, but, if you sign a contract with an agent, you would charge him 6%, but as a 're-seller', of a service/goods, he is subject to 23%. This may have implications in the offshore>agent>client situation... more info needed.

RENTAL INVOICES/RECEIPTS

Each owner must have official Portuguese invoices (as the taxable activity is here...even although the contract may be made outside Portugal) for each rental amount received.

There are 'online' systems here, which are linked 'live' to the tax office, and must be filled out within 5 days of any rental receipt, deposit etc etc. your accountant may suggest this, as it will be easier for him to manage.

This would be too complicated for most owners who arrange their own bookings via UK or internet.

We suggest that, as it stands now, you can still have a printed fatura/receipt book. I think that the simplest system, is that you arrange an official receipt book, this must be printed here, by a licensed printer, (most are..) and will have the owners/tax payers, name and tax number, is numbered, and in quadruplicate. Cost about 30-40euros per 100 pages. Cheaper than an annual 'online' system...and will last for years! (more information 13th May).

EG (If the rental amount received is 1000 euros that would be 943.40euros plus 56.60 euros IVA @6%). we suggest that even if paid in sterling you do the receipt in euros at the rate of the day. Mention this rate on the invoice.

This can be filled in, at leisure, at year end. (for IVA quarterly), and send to accountant in January , with the bills, to calculate the total annual rent.

NB HOT TIP....Some 'friends and family' may not pay the full, or any, amount ;-)
For these, a record should be kept, as, if audited, you may have to show justification, as the occupation will show in the maids hours, electric bills, online calendars etc. The tax office is watching YOU online! The 'inspectors' are all young internet hotshots, employed specifically, (100+ last year), for this activity, and have arrived with charts, rental prices, electric useages, telephone and internet useage etc etc

DECLARING THE OCCUPANCY

Last but not least, any AL registered house must make declarations of ALL renters to SEF, Servico de Estrangeiros e Fronteiras.... the immigration bureau, under Schengen and EU law. For each person in the party you will need

- Full Name
- Date of birth
- ID/Passport number
- Arrival and departure date

This is available to do online, once you have opened an account with them.

Note

Once you have registered the house as AL, you will be issued with a BUE number. This is to be present on all advertising (eg online, brochures etc) . It allows renters to check that the house is legally registered, and the tax office 'netsurfers' , to see who is legal or not!

Laws applicable some with links... if they work....

Decreto-Lei n.º 128/2014, de 29 de Agosto
<http://dre.pt/pdf1sdip/2014/08/16600/0457004577.pdf>
Decreto-Lei nº 15/ 2014, de 23 de Janeiro
Declaração de Retificação nº 19/2014
Law Decreto Lei 381/2007 14th Nov revision 3

Also

In Portuguese... re new rules....

<http://www.turismodeportugal.pt/Portugu%C3%AAs/turismodeportugal/destaque/Pages/AlojamentoLocalnovoregimejuridicoentraemvigora26denovembro.aspx>

and <http://www.lisbonapartments.com/lisbon/2014/09/11/publicado-novo-regime-juridico-para-o-alojamento-local/>

Summary

Houses in Private names

- Step 1 Get an accountant for fiscal representation and tax declaration.
- Step 2 Get a retirement or Social security exemption (A1 certificate from your EU employer).
- Step 3 Get the accountant to register the owner at the tax office under activity CAE 55201
- Step 4 Get gas, electric, plumbing, fire prevention certificates from certified tradesmen
- Step 5 Apply to the local council with all required documents
- Step 6 Apply for a complaints book.
- Step 7 Get an official receipt/invoice book.
- Step 8 Get an energy certificate
- Step 9 Register on the SEF website to declare occupancy.

Houses in offshores

NB I have not done this personally yet... so please double check. The AL form seems to have all the required spaces for this, but there are always tripwires!

- Step 1 Get an accountant for the agent, for fiscal representation and tax declaration. In principal, as the offshore has no activity or income, no declaration is required, only for the agent/renter.
- Step 2 Get a Power of attorney from the nominees to the 'agent', to make a contrato de accommodato, (now doubtful...) or similar, and other powers as needed, to register the contract, council and to allow sublets for holiday rentals.
- Step 3 Get an A1 social security exemption certificate or proof of retirement for the agent/beneficial owner.
- Step 4 Get the accountant to register the agent at the tax office under activity CAE 55201
- Step 5 Get gas, electric, plumbing, fire prevention certificates from certified tradesmen
- Step 6 Apply to the local council with all required documents
- Step 7 Apply for a complaints book.
- Step 8 Get an official receipt/invoice book.
- Step 9 Get an energy certificate
- Step 10 Register on the SEF website

FYI

Once set up, this will probably cost, (for most villas that are rented by owners, 12- 14+ weeks p.a. , and gross around 20.000eur p.a. rents) , about 1000 euros per year in tax and fees.

The fines for non registration are rigorous, and start at 3,400 eur, plus costs and interest, and back tax. Any local (not UK!) rental agents (not managers), are also fined from 25,000eur per property. Minor infractions eg missing signs, complaint books etc are less, and vary.. but are still rigorous....

On the last round of enforcement, (approx 2008), in this area, owners were told to pay 4 years of back tax, estimated by the tax office, doubled, and with costs..... if one argued, they then issued you an additional bill on the same basis, for the maximum allowed of 5 years, and, as there is , effectively, no legal, judicial or ombudsman system to fight this, and virtually no negotiation procedure... you pay!

Guilty without recourse.....