



GUIDE TO BUYING PROPERTY IN
PORTUGAL



CONTENTS

The Legalities of Buying Property in Portugal	3
IMT and IMI Property Taxes	4
Offshore Companies	6
At a Glance	6
Contacts	8

THE RESIDENTIAL PROPERTY PURCHASE PROCEDURE IN PORTUGAL

Buying property in Portugal should be relatively straightforward, but we would always recommend that you engage the services of a reputable agent, lawyer and notary.

The following information, prepared for us by Dr Patricia Dias, has been compiled as a guide for potential buyers of property in Portugal. It does not seek to provide or replace legal advice which you should obtain, nor is it intended to have any contractual effect.

THE LEGALITIES OF BUYING PROPERTY IN PORTUGAL

When a purchase has been chosen, typically the buyer is asked to sign a promissory contract (the first legal commitment in Portugal on a property purchase) and pay a 10% deposit.

If the buyer withdraws after the promissory contract is signed, they may forfeit the deposit; if the vendor withdraws, they may have to compensate the buyer. A lawyer can explain the specific rules in more detail.

If the buyer is purchasing off-plan and the new development is under construction, the buyer is typically required to pay the purchase price in stages.

The buyer's lawyer will:

- Confirm that the property's legal documents are in order
- Verify that the property is registered in the name of the vendor
- Establish that no mortgages, seizures or charges are registered on the property

- Check that the property has all the necessary licences in place

Once the necessary searches have been carried out, the deed or 'escritura' in Portuguese, is then booked with a local notary. The deed is the official document identifying the vendor, which is signed before the notary by both the buyer and vendor. After this document is signed the property is then registered in the name of the buyer at the local Land Registry Department and Tax Office.

The escritura includes a detailed description of the property, the name of the vendor, the name of the buyer, the price paid and the verification that all of the documents have been checked by the notary. It also declares that the full price has been paid. If the buyer is not able to sign the escritura, they may give the power of attorney to their lawyer. This document can be signed either in Portugal or in their country of residence.

Notaries are now private in Portugal and their task is to certify that the escritura has been signed and that all legal documents have again been checked. The notary fees will vary according to the purchase price and the time spent on the transaction.

Additional fees include:

- VAT (IVA in Portugal) will be charged at the legal rate of 23%
- A registration fee of €250 is typically charged by the Land Registry Department for a straight forward purchase



IMT AND IMI PROPERTY TAXES

With the purchase of a property, three taxes are charged by the Portuguese authorities. Before completion, the 'Imposto Municipal sobre as Transmissões Onerosas' (IMT Tax) is payable as follows:

- ◆ Holiday homes are subject to between 1%-8% of the purchase price. If the purchase price is more than €550,836 a fixed rate of 6% is charged
- ◆ Rustic property (normally agricultural land) is subject to a fixed rate of 5%. Other non-residential property such as plots of land are fixed at 6.5%
- ◆ Where property is acquired by an offshore company based in a blacklisted tax haven, the IMT tax is a 8% flat rate. In addition, Stamp Duty or 'Imposto do Selo' is also payable at 0.8% of the purchase price

After the property is purchased there is an annual Municipal Tax (similar to UK Council Tax) called Imposto Municipal

sobre Imóveis (IMI) which is based on the Valor Patrimonial (VP), the declared value of the property, and fixed by each Municipality. The rates range from 0.2%-0.8% depending on the location and age of the property.

It has long been common practice in Portugal for the purchase price of a property to be under-declared, this is

illegal and if discovered parties could be subject to penalties.

VPs still bear little resemblance to the real market value of a property and are being systematically reviewed, especially when a transaction occurs. The new VP values will follow a formula that takes into account criteria such as size of the property, the location and quality of build.



In many cases the increase in registered value will be substantial.

If the authorities suspect that the purchase price has been under-declared they have the option to purchase the property at the declared price.

Portuguese Taxes

Permanent residence

From Euros	To Euros	% to apply	Amount to deduct (Euros)
0	92,407	0	0
92,407	126,403	2	1,848.14
126,403	172,348	5	5,640.23
172,348	287,213	7	9,087.19
287,213	574,323	8	11,959.32
Above	574,323	6	-

Non-permanent residence

From Euros	To Euros	% to apply	Amount to deduct (Euros)
0	92,407	1	0
92,407	126,403	2	924.07
126,403	172,348	5	4,716.16
172,348	287,213	7	8,163.12
287,213	550,836	8	11,035.25
Above	550,836	6	-

Correct at time of publishing, February 2014

OFFSHORE COMPANIES

A common method of purchasing Portuguese property is to purchase through an off-shore company.

This practice means that, if buying the shares of the company, the buyer does not pay IMT tax, stamp duty or notary fees, and the vendor does not pay Capital Gains Tax. Buyers should seek legal assistance to make sure the Company is legal and outside jurisdictions classified by the Portuguese Authorities as black listed.

AT A GLANCE

BUYING

Transaction costs

- ♦ **Lawyer fee**
 - 1% of the purchase price subject to a minimum fee of around €1,100 (if the property is under construction or there are issues requiring extra work the fee could be higher)
- ♦ **Notary fee**
 - This fee will vary. Together with a land registry fee these total between 1.5%-2% of the value of the property
- ♦ **Purchase tax** (Imposto Municipal sobre Transmissões Onerosas de Imóveis (IMT))
 - This is between 0%-8% (depending on the declared value of the property Valor Patrimonial' (VP) and is payable by the buyer
 - Rustic property (not qualified for construction) is subject to a fixed IMT rate of 5% with no tax-free exemption
 - Other non-residential property is fixed at 6.5%
 - Where property is acquired by an OC, based in a black-listed tax haven (as defined by Portugal) the IMT is 8%
- ♦ **VAT (IVA)** will be charged at the standard rate of 23% on estate agent, legal and survey fees and on all purchases of building materials as well as the builder's fees if you build or extend a property

Standard purchase procedures

- ♦ **Deposit:** buyer pays a 10% deposit
- ♦ **Legal checks:** Lawyer checks title deed, outstanding charges, permissions/licences and the contract terms
- ♦ **Title deed (Escritura) transfer:** Transfer title deed into the buyer's name and register with the Portuguese Government Land Registry
- ♦ **Title Deed (Escritura) signing:** Both buyer and vendor must sign the Escritura in front of a notary or give power of attorney to their lawyer to sign on their behalf, providing all parties agree. At this time the funds are handed over in the notary's presence, or the vendor confirms that the money has already been received. Proof of the payment is incorporated into the title deeds

OWNING

Annual costs

- ♦ Property insurance
- ♦ Contents insurance
- ♦ Municipal Tax (Imposto Municipal sobre Imóveis (IMI))
 - Based on the Valor Patrimonial (VP), the declared value of the property, and fixed by each Municipality; the rates range from 0.2% 0.8%, depending on the location and age of the property

Monthly costs

- ♦ Electricity
- ♦ Water
- ♦ Gas
- ♦ Telephone
- ♦ TV
- ♦ Pool and garden maintenance
- ♦ Cleaning
- ♦ Property rates
- ♦ Condo fees where applicable

Property Management

- ♦ Management fee typically €750 p/a for 2 bed apartment – €1,500 for 4 bed villa + IVA
- ♦ Property rates
- ♦ Condo fees where applicable

Rentals

- ♦ Long term
- ♦ Short term

SELLING

Transaction costs

- ♦ Lawyer's fees – 1% of purchase price normal
- ♦ Agents fees – 4-5% + IVA
- ♦ Stamp Duty
- ♦ Property Transfer Tax
- ♦ Capital Gains Tax

Standard selling procedures

- ♦ Accept offer
- ♦ Appoint a lawyer
- ♦ Buyer's lawyer to carry out searches
- ♦ Sign Promissory contact (2-6 weeks)
- ♦ Sign Escritura and transfer title deeds into buyers name (3-6 months)
- ♦ Pay Agent's fee, which is often retained by the buyer's lawyer who then pays the agent on the vendor's behalf

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Important Notice

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