

## NEWSLETTER – PORTUGAL

### SUBJECT: RESIDENCY & FOREIGN REGISTERED CARS

We receive continual feedback from clients who have moved to Portugal permanently and have taken their foreign (e.g. UK) registered vehicle. Apart from the ISV (Portuguese car tax) rates being increased considerably in 2009, 2007 saw events change. The vehicle registration / tax authorities in Portugal now require that vehicles brought permanently into Portugal must have been owned one year plus one day in country of residence (origin e.g. UK) rather than the six months plus one day as previously applied. Furthermore, the procedure to apply for re-registration in Portugal must commence within six months (was previously up to one year) of giving up one's previous residency (e.g. the UK). This appears to conform to the options EU Council Directive 83/183 on tax exemptions applicable to permanent imports from a member state of the personal property of individuals. The current situation is subject to change.

As there is no formal single residency registration in the UK, certain documents related to proof of residing in the UK could be requested. Proof of ownership, residence and use in the country of origin seem to be determined by providing a minimum of two utility bills such as gas, electricity, water, telephone, bank statements, pay slips, credit card statements, electoral registration or the like over the full previous twelve months. They must show the same address as the V5C UK Registration Certificate. Other means of evidence could help are penalty tickets and fuel receipts. Failing that, the British Embassy in Lisbon should be able to issue the necessary certificate based on their being satisfied through formal documentary evidence provided by yourself that residency actually took place in the UK see link for more details:-

<http://www.britishembassy.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1057336084920>

It appears as if the authorities classify moving to take up permanent residence as exactly that, when you have physically moved to Portugal and not when you apply for a residence permit which one should do directly when one moves there. Thus delaying one's application for a residence permit so as to make it appear that you have owned the car twelve months plus one day previously will generally not assist in legally avoiding the requirement to pay the Portuguese car tax.

A resident of Portugal may only drive vehicles formally registered in Portugal. A possible exception is where an application has been already been formally lodged to register a foreign registered vehicle in Portugal. Individuals who are not resident in Portugal or are on a temporary visit (less than six months / 182 days per year) should be able to use their foreign registered vehicle in Portugal providing under EU regulations it is taxed, insured and tested (MoT) as it would need to be in its country of registration. Strictly speaking the vehicle needs to be removed from Portuguese territory when an individual is not in Portugal, but at least for more than six months and a day (185 days) in each year.

Even if you are able to provide details as per the above, if you are using the vehicle on a temporary basis beforehand, it seems that there may be various ways of the authorities record foreign registered vehicles unbeknown to the owner, which will make them aware as to its presence. Therefore potential disputes could result in greater problems occurring with the authorities later if contested (incorrectly). There are some possible methods of reducing the chances of disputes occurring if you are not formally resident in Portugal and are spending less than six months a year in the country.

The vehicle registration tax (ISV) on cars in Portugal applies on the registration and has nothing to do with VAT which is a separate issue (see section 4d on page 2 and details are available on request). If you are not entitled to the movers exemption (one car per

person once every five years), then the ISV will be levied on a combination of the engine size and the CO<sup>2</sup> emissions depending upon the fuel type used and whether a particle filter is fitted on a diesel powered car. There is a flat rate allowance plus and an allowance for the age of the car. The CO<sup>2</sup> emissions are generally taken from the EC Certificate of Conformity (Section 46.2 combined CO<sup>2</sup> g/km) required for the vehicle, however once a car has been in use for more than a year or so (generally around two years), then this figure may no longer be accepted, whereby the car will need to have the emissions tested at special centres for a fee (could be ca. €2,500 depending upon vehicle). It is important to ensure that the engine is in good shape and preferably serviced or tuned before such an inspection as CO<sup>2</sup> values may increase if the engine is not properly maintained.

One is able to calculate the ISV oneself by going to the following website

<http://www.e-financas.gov.pt/de/jsp-dgaiec/main.jsp?body=/ia/simuladorISV2009.jsp>

#### GUIDE:

Estado-Membro da União Europeia (EU member state)

Automóvel ligeiro de passageiros (car)

novo or usado (new or used)

if used - date of first registration

gasoline (petrol) or gasóleo (diesel)

C.C. / cm<sup>3</sup> (engine size - cc)

CO<sup>2</sup> g/km - emissions (combined as on CoC)

Partículas (if particle filter fitted then < 0.005 g/km per CoC)

Click "Calcular Imposto"

You will then see the various stages of the calculation.

The final amount is Imposto Sobre Veículos (ISV).

VAT is usually applied to this figure.

If previously resident outside of Portugal, one is only able to bring one ISV exempt vehicle per person once every ten years.

The engine number is often difficult to locate on newer cars and is simply not known. This appears as NOT KNOWN on the V5C UK registration Certificate. It sometimes helps if the engine number could be established and documented by a franchised dealership and is then added onto the V5C by sending this into the DVLA Swansea for updating.

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#### NOTICE

*This newsletter is only based upon general information and feedback received from various sources and is only intended as a guide, not a letter of the law. Therefore, we recommend that you consult a solicitor or a lawyer for professional advice as to the latest situation locally.*