

# Golden Visa

## Q&A

CMS Portugal

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Portugal has introduced changes to the regime of entry and residence of foreign nationals in the country. This regime is more attractive in terms of visa requirements enhancing Portugal's ability to attract foreign nationals to invest in the Portuguese territory. In general terms, it is possible for a temporary residence permit to be granted without the need of a residence visa.

## 1 What is a Golden Visa?

Golden Visa is a residence permit given to non-EU citizens who decide to invest in Portugal. It is a fast track visa for investors, taking less time to be issued than a regular visa. This kind of visa also allows the investor to freely travel within the Schengen area while the visa is in force.

## 2 How long does the Golden Visa regime exist in Portugal?

The Golden Visa regime was launched in 2012. As of December 2021, 10,254 Golden Visa permits and 17,221 residence permits for respective family members, have been issued in Portugal.

## 3 Under which conditions can a Golden Visa be granted?

In order to obtain a Golden Visa, the investor must comply with at least one of the following conditions:

- Capital transfer in the minimum amount of €1,500,000 that may include a direct investment in Portuguese companies through the purchase of the respective shares;
- Creation of at least 10 jobs positions;
- Acquisition of real estate property, for residential purposes, in the minimum amount of €500,000 (or €400,000 in case of

low density areas), located in the Autonomous Regions of the Azores and Madeira or in the interior territories. If it is not for residential purposes the real estate property in the minimum amount of €500,000 can be located in all the national territory.

- Acquisition of real estate property, located in the Autonomous Regions of the Azores and Madeira or in the interior territories, which construction has been concluded at least 30 years ago or is located in an urban rehabilitation area, to be subject to rehabilitation works in the minimum amount of €350,000 (or €280,000 in case of low density areas). If it is not for residential purposes the real estate property in the minimum of €350,000 can be located in all the national territory.
- Capital transfer in the minimum amount of €500,000 which shall be applied in research activity developed by public or private institutions of scientific investigation, part of the scientific and technologic national system.
- Capital transfer in the minimum amount of €250,000 which shall be applied in investment or support of arts productions, recuperation or maintenance of national cultural heritage, through services of the central and peripheral direct administration, public institutes, entities of the State-owned company sector, public foundations, private foundations with public utility status, inter-municipal entities, entities that pertain to the local business sector, municipal associative entities and public cultural associations pursuing their function in the field of artistic production, recovery or maintenance of national cultural heritage.
- Capital transfer in the minimum amount of €500,000 for purchasing shares in investment funds or in venture capital funds geared to capitalize companies that are incorporate under the Portuguese law with the maturity of at least 5 years and provided that at least 60% of its capital is invested in companies based on the Portuguese territory.
- Capital transfer in the minimum amount of €500,000 for the

establishment of a commercial company in Portuguese territory combined with the creation of at least 5 permanent jobs. Or transfer for the capital increase of a commercial company already established in Portuguese territory with the creation or maintenance of, at least, 5 permanent jobs for a minimum period of 3 years.

## 4 Who can apply for a Golden Visa?

Non-EU citizens who carry out investment activities personally or through a Portuguese company fulfilling at least one of the conditions mentioned above for a minimum period of 5 years.

## 5 Are there any other conditions that the investor needs to comply with in order to obtain a Golden Visa?

The applicants are subject to a number of cumulative and cautionary measures, whereby they may not:

- Have been convicted of a crime punishable with deprivation of liberty exceeding 1 year.
- Have been subject of an entry ban in national territory following the expulsion from the country.
- Have been the subject of alerts at the Foreigners and Borders Service (SEF) for the purpose of non-admission.

## 6 Which documents are required when applying for the Golden Visa?

- Passport or other valid travel document.
- Proof of legal entry and stay in the Portuguese territory.
- Proof that the applicant is covered by the national Health Care system.
- Clean criminal record issued by the country of origin or by the country where the applicant has been living for more than one year. Otherwise, a certificate from the Portuguese diplomatic representation or consular mission.
- Proof of support of the tax identification number or equivalent, of the country of origin, residence or tax residence.
- Declaration giving consent to a criminal record check in Portugal.

- Sworn statement undertaking the responsibility of fulfilling the requirements correlated to the investment activity conducted in the Portuguese territory.
- Updated declarations issued by the Portuguese Tax Authorities and by the Portuguese Social Security confirming the absence of any debts to those entities.
- Receipt of payment for the analysis of an ARI request.
- Declaration of a credit institution authorised or registered in national territory by Bank of Portugal attesting the effective international transfer of assets for the acquisition in the minimum amount required by law.
- Prove of the ownership of shares free of any charges and obligations issued by the entity responsible for keeping the shareholders' registers.
- Declaration issued by a private equity fund management company stating the viability of the capitalization plan, a maturity of at least 5 years and the application of at least 60% of the investment in the company with headquarters in Portuguese territory.

## 7 What are the steps to be taken in order to obtain a Golden Visa?

- Open a Portuguese bank account.
- Visit Portugal to formalize the investment as appropriate.
- Collect all documents required by SEF.
- Fulfil an online application with the required documents and pay the necessary administratives fees.
- After the preliminary approval of the application, an appointment is scheduled with SEF to submit in person all the documents and collect all the required personal data.
- The applicant is after notified of the final approval as well as of the deadline to pay the fees for the final issuance of the residency cards

## 8 How long does the procedure take to obtain a Golden Visa?

Once the investor has filed all relevant documents the process takes in average approximately 3 to 4 months.

## 9 What are the main features of a Golden Visa?

- Minimum stay in Portugal of a 7 days per year: 14 days at the end of the second year (first renewal); and 21 days at the end of the fifth year (second renewal).
- Freely move within the Schengen area without any additional visa.
- Right to family reunification.
- Possibility to obtain a permanent residency visa after 5 years provided the terms and conditions set out by the legislation in force are met.
- Possibility to apply for a Portuguese citizenship after 5 years since the Golden Visa has been granted if all terms and conditions set out by the legislation in force are complied.

## 10 For how long is a Golden Visa valid?

A Golden Visa is initially granted for 2 year and may be renewed for periods of 3 years.

## 11 How can a Golden Visa be renewed?

The Golden Visa holder must comply with all the conditions set out above to apply for its renovation.

Renewals are always granted for a 3 years period. After 5 years, the investor can apply for a permanent residency or for Portuguese citizenship.

## 12 Do I need to reinvest after 5 years to renew the Golden Visa?

No, only the initial investment is required but it must be maintained in order to be renewed.

## 13 After 5 years can the holder apply for a citizenship other than Portuguese based on the current Golden Visa?

No, it is not possible to apply for any other citizenship of any Schengen country other than Portuguese. Therefore, after completing the fifth year, the Golden Visa holder and its family members may only apply for a Portuguese citizenship if all terms and conditions set out by the

legislation in force are complied.

Citizenship of other EU countries may be granted by the respective authorities under their applicable legislation but not based on the granting of a Portuguese Golden Visa.

## 14 What are the costs to extend a Golden Visa?

The application process for the issuance of a Golden Visa involves the following administrative costs:

### Submission/Analysis

- Process of application for a temporary residence permit
- Process of application for a renewal of a temporary residence permit
- Per each family member under reunification process

€533

€533

€533

### Issuance

- Temporary residence permit
- Renewal of a temporary residence permit
- Temporary residence permit duplicate (original)
- Temporary residence permit triplicate (original)

€5,335

€2,663

€2,662.50

€5,325

### Reissuance

- Temporary residence permit due to marital status or address amendments

€1,331.21

## 15 Which family members are eligible to apply for a Golden Visa?

All household members can apply for a Golden Visa. The following are considered household members:

- Spouses: by any marriage recognized by the Portuguese Law.
- Minor or disabled children under the custody of the couple or of one of the spouses.
- Children adopted by an unmarried applicant or by a married applicant or by his/her partner, provided such adoption was authorized by the relevant

authority of the country of origin and has the same legal effects to those of natural children and that such decision is recognized in Portugal.

- Children of full age who are dependent on both or one parent, provided they are unmarried students.
- Applicant's first-degree ascendants or his partner, provided they are economically dependent of them.
- Under age siblings under the custody of the applicant by order of a legal decision by the relevant authorities of the country of origin, if such order is recognized in Portugal.

The following are considered relatives resulting from non-marital partnerships:

- Life partner with registered partnership under the law, either in national territory or abroad.
- Unmarried minor or disabled children including those adopted by life-partner who has been given legal custody over them.

## **16 When can the household member apply for the Golden Visa?**

Household members can apply for their Golden Visa at the same time as the investor or at a later stage, as deemed appropriate by the investor.

## **17 Which documents must be presented by the household member when applying for a Golden Visa?**

An household member must present the following documentation to support his/her relationship with the Investor:

- Birth certificate;
- Marriage certificate;
- Evidence of family dependency;
- Term of responsibility signed by the investor and certified by a notary;
- Any other document deemed necessary for specific situations;
- Valid passport;

- Schengen Visa, when applicable, and legalize their entry with SEF within 90 days from the date of their first entry in Portugal;
- Criminal record issued by their country of origin or by the country where have been residing for more than one year;
- Declaration giving their consent to a criminal record check in Portugal;
- Update declarations issued by the Portuguese Tax Authorities and by the Portuguese Social Security confirming the absence of any debts to those entities;
- Health insurance;
- Receipt of Golden Visa application fee;
- All necessary documents that prove the relationship and dependency to the investor, duly legalized by the Portuguese Consulate where the referred documents were issued.

## **18 Are the family members of the investor able to apply for permanent residency after 5 years?**

Yes, the family members are entitled to apply for the permanent residency after 5 years. For this purpose, it is required a proven basic knowledge of Portuguese with the necessary approval.

## **19 Are the family members of the investor able to apply for citizenship after 5 years?**

Yes, they are able to apply for the Portuguese citizenship after 5 years if they fulfil all the needed requirements:

- Valid and legal Portuguese residency for at least 5 years.
- Proven basic knowledge of Portuguese with the necessary approval.
- Clean criminal record during those 5 years.
- Payment of the administrative fee
- Pay the administrative fee.

## 20 What happens if one of the household members does not comply with all or some of the given conditions?

If one of the household members does not comply with all the mandatory conditions, the Golden Visa will not be granted.

## 21 What is the difference between a Golden Visa and a permanent residency?

### Golden Visa

- Obtained by investing in Portugal and granted for 2 years initially.
- It must be renewed at the end of second year and every following period of 3 years after first renewal.
- Holder may not be away from the Portuguese territory for more than 24 months in a row or in a period of 3 years, for more than 30 non continuous months.

### Permanent Residency

- Given after holding a temporary residency for at least 5 years and granted with no time limit.
- It must be renewed every 5 years.
- Holder may not be away from the Portuguese territory for more than 24 months in a row, or, in a period of 3 years, for more than 30 non continuous months.

## 22 What are the requirements and main differences between a Portuguese citizenship and a Permanent Residency?

### Permanent residency

- Valid Portuguese temporary residency title for at least 5 years.
- Proven basic knowledge of Portuguese with the necessary approval.
- Proof of income.
- Clean criminal record with reference to the previous 5 years.
- Payment of the administrative fee.
- Must comply with minimum stay in Portugal as mentioned above.

- It must be renewed every 5 years.

### Citizenship

- Valid and legal Portuguese residency for at least 5 years.
- Proven basic knowledge of Portuguese with the necessary approval.
- Clean criminal record with reference to the previous 5 years.
- Payment of the administrative fee.
- Does not need to comply with any minimum stay.
- No need for renewal.

## 23 Is a Golden Visa valid for Portugal only?

No, the Golden Visa is valid in all Schengen countries: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland.

## 24 Is it possible to travel with a Golden Visa? Is it possible to work in other countries with a Golden Visa?

It is possible to travel in all Schengen countries during the time the visa is valid.

The possibility to work in another Schengen country depends on the country and its domestic legislation.

## 25 Under which conditions can a Golden Visa be revoked?

A Golden Visa can be revoked in the following situations:

- The holder does not extend the visa once it elapses.
- The holder does not continuously invest in the period of 5 years.
- The holder is involved in illegal work and gets a criminal record in Portugal.
- The holder does not respect the minimum stay required.
- The holder does not comply with the mandatory requirements set above.

## 26 What type of business can be carried out by the Golden Visa holder?

Any type of legal business can be carried out by the investor in the Portuguese territory.

## 27 Is it possible to sell the property before the 5 years elapse? If so, can the Golden Visa still be extended?

Yes, the investor may sell the property or participation unit during the 5 years period, but he/she needs to use the proceeds to buy another property or participation unit for the same amount before next renewal.

## 28 Is it possible to obtain a Golden Visa by acquiring two or more properties which combined amount achieves the minimum threshold?

Yes, provided the remaining requirements are also met.

## 29 What is a Tax Number?

The Tax Number is an identification number granted by the Portuguese authorities for tax purposes. It is also required for purposes of opening a bank account in Portugal.

## 30 What happens with the investment and the status of the investor if the law changes and Golden Visa is no longer allowed in Portugal?

Any legislative change shall only apply for the future, meaning that all Golden Visas granted until such moment shall remain valid under the current terms and conditions.

## 31 Which taxes are due on the acquisition of real estate?

Real estate acquisition shall be liable to real estate transfer tax (IMT) at the following rates:

- Urban property used exclusively for residential purposes: 6% (maximum progressive rate) or 7.5% in case the acquisition price exceeds €1,000,000.
- Rural property: 5%
- Urban property not intended exclusively for residential purposes: 6,5%
- Stamp duty at the rate of 0.8%.

The above rates apply on the real estate taxable value determined by the tax authorities or on the acquisition price, whichever is higher.

## 32 Which taxes are due on the ownership of real estate?

Real estate tax (IMI) due on an annual basis on the real estate taxable value of the property, at the following rates:

- 0.3% to 0.45% regarding urban properties.
- 0.8% regarding rural properties

IMI surcharge is due by individuals and companies which own urban real estate properties located in Portuguese territory. Urban properties classified as "commercial, industrial or for services" and "others" are outside the scope of application of the AIMI.

The IMI surcharge will be assessed on the sum of the taxable value of the urban properties owned by each taxpayer as of January 1 of each year at the following rates:

### Individuals

- 0.7% due on the part of the sum of the taxable value of eligible properties that exceeds €600,000 married taxpayers as well as unmarried cohabiting couples who opt for an aggregated taxation are granted a deduction of €1,200,000.
- 1% - marginal rate – due on the part of the sum of the taxable value of eligible properties that exceeds €1,000,000 or €2,000,000 for married taxpayers and unmarried cohabiting couples who opt for an aggregated taxation;

### Companies

- 0.4% due on the global sum of the taxable value of eligible properties companies are not entitled to any deduction;

## **33 How are individual and corporate investors taxed on income generated by the property?**

Individuals are liable to Personal Income Tax at a 28% rate both on the rental income as well as on capital gains deriving from the sale of the property.

Capital gains and rental income assessed by companies is included in its taxable profit, which is liable to Corporate Income Tax at a 21% rate, plus a municipal surcharge at a maximum rate of 1.5%. For taxable profits exceeding EUR 1,500,000, a state surcharge also applies under the following terms:

- 3% on the part of the taxable profit between €1,500,000 and €7,500,000;
- 5% on the part of the taxable profit between €7,500,000 and €35,000,000;
- 9% on the part of the taxable profit exceeding €35,000,000.

Business costs related to the activity of the company can be deducted to the taxable profits. The interest due on loans granted to the company for purposes of financing the acquisition of real estate will also be tax deductible within the following thresholds: (i) EUR 1,000,000 or 30% of the EBITDA.

## **34 How are individual and corporate investors taxed on income generated by participation units of Private Equity Funds (PEF)?**

- PEFs distributions to non-resident individual investors, as well as capital gains deriving from its redemption or sale are exempt from Portuguese personal income tax in Portugal;
- PEFs distributions to Portuguese resident individual investors (as well as to entities resident in a tax haven jurisdiction) as well as capital gains deriving from its redemption or sale are liable to a 10% PIT final withholding tax rate;
- PEFs distributions to Portuguese resident companies as well as capital gains deriving from its redemption or sale are included in its taxable profit, which is liable to Corporate Income Tax under the above described regime.

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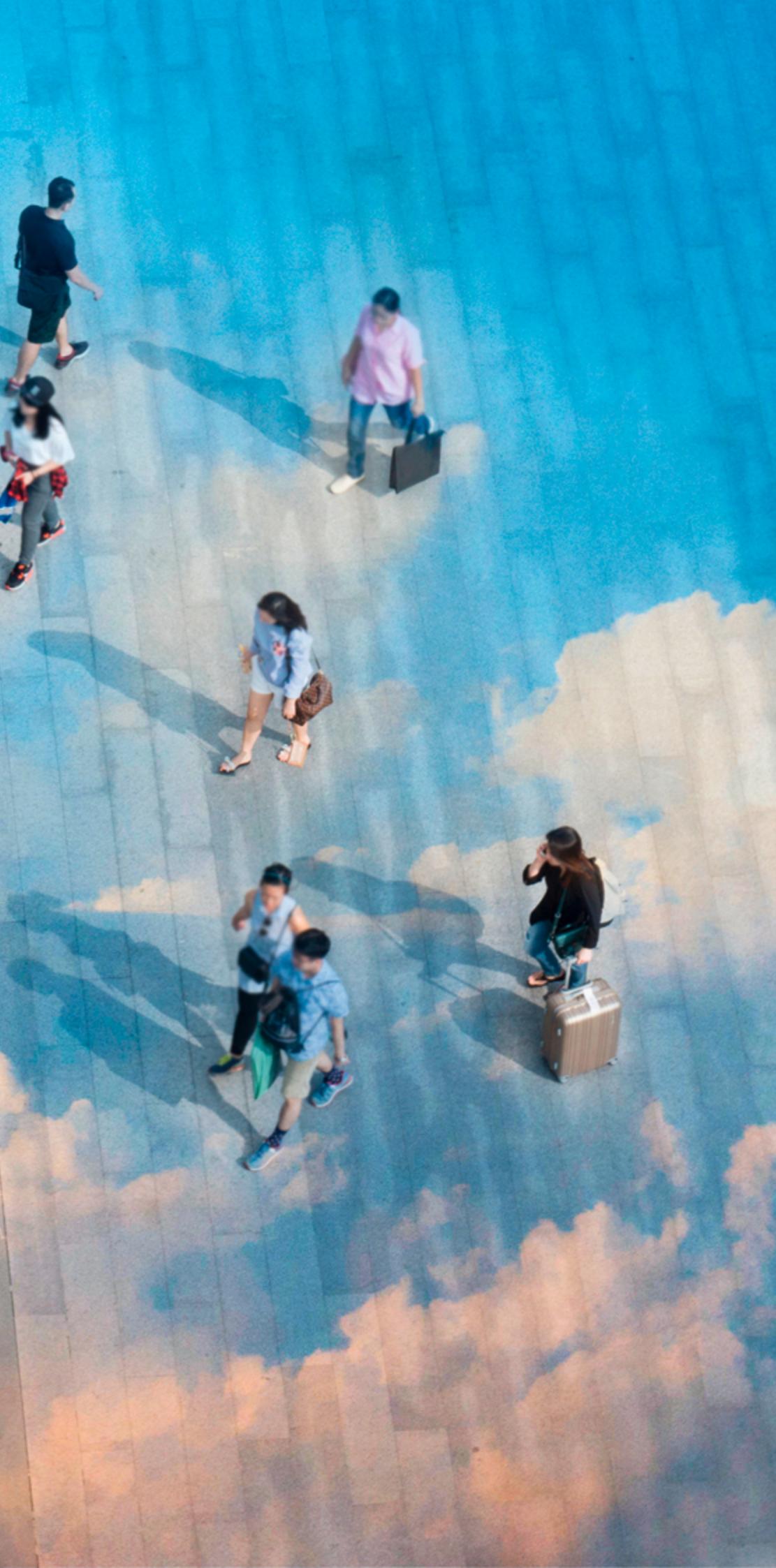
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