

## **DECREE-LAW NR. 165/86 of June 26**

The special geographical situation of Madeira together with the very specific characteristics of its economy led the Government to authorize, under Decree-Law Nr. 500/80 of October 20, the creation of a free trade zone in the Autonomous Region of Madeira.

The central objective in view was to promote and attract new investments designed to help the economic and social development of the Region and, for this purpose the Government, under Regulatory Decree Nr. 53/82 of August 23, determined that all activities of industrial, commercial and financial nature may be authorized in the said free trade zone.

In accordance with this policy, the Government sought and obtained from Parliament, legislative powers to revise the tax benefits to be granted to companies incorporated in the existing free trade zones, such objective which is now being pursued, together with other benefits with similar purposes.

When conceiving the incentives' scheme hereby established, the economic delay in helping out the incorporation of the companies was considered, defined in terms compatible with the stipulations of Nr. 3 of Article 92 of the Treaty of Rome, and aimed at the promotion of regional development and improvement of the conditions under which the companies incorporated in the Free Trade Zone of Madeira may compete.

Thus:

In accordance with the authorization granted under Article 77 of Law Nr. 9/86 dated April 30<sup>th</sup>, the Government decrees, pursuant to paragraph b) of Nr. 1 of Article 201 of the Constitution, the following:

### **Article 1 (Objectives)**

In order to promote and attract investment to the Free Trade Zone of Madeira, tax and financial benefits may be granted with a regional scope for the following purposes:

- a) To promote the setting up of new investment projects;
- b) To attract and secure factors of production;
- c) To support the start-up and stabilization of incorporated companies.

### **Article 2 (Incentives)**

The incentives to be granted for the promotion and attraction of investment in the Free Trade Zone of Madeira shall be defined by the Regional Government, considering, namely, the contribution to the economic and social development of the Region and the resources that the Regional Government is able to make available for such purpose.

### **Article 3** **(Agreements on double taxation)**

Granting of exemptions and/or reduction in income tax rates should take under consideration the effects resulting from measures that may apply in order to avoid international double taxation.

### **Article 4** **(Accounting requirements)**

The companies which incorporation may come to be authorized in the Free Trade Zone of Madeira must keep adequate accountancy, so that profits derived from activities carried on in the Free Trade Zone can be clearly and unmistakably identified, complying, if applicable, with the established in the sole paragraph of Article 22 of the Industrial Tax Code.

### **Article 5** **(Financial incentives)**

(Revoked by Article 2º of Law n.º 55/2013, of the 8<sup>th</sup> of August.)

### **Article 6** **(Tax incentives for shareholders)**

The shareholders of companies to be established in the Free Trade Zone of Madeira shall enjoy, without the need for any formality, the following tax incentives:

- a) The total value of the share holding in the incorporated company shall be considered as costs incurred in the relevant tax year for purposes of industrial tax in the respective year-end;
- b) Exemption of capital tax and complementary tax in respect of income arising from profits from loans, shareholders' loans, or other payments made to such companies, and also in respect of the income arising from unpaid profits until the end of the year during which they were made available to the shareholders;
- c) Exemption of capital gains tax due on any increases of share capital of the said companies;
- d) The transfer of holdings, quotas, shares or other assets forming part of the assets of companies established in the Free Trade Zone of Madeira, onerous or gratuitous, shall be exempt from property transfer tax ("SISA"), donations and inheritance tax, provided that the respective activity is exercised within the said Free Trade Zone.

### **Article 7** **(Tax incentives for companies)**

Companies incorporated in the Free Trade Zone of Madeira shall enjoy the following tax benefits:

- a) Exemption from tax property transfer tax, donations and inheritance tax due on the acquisition of immovable property for their premises;
- b) Exemption from capital gains tax due on the sale of plots for construction and other fixed assets or values which kept as reserves or under utilization;

- c) Exemption, up to 31st December 2011, from property tax (“contribuição predial”), industrial tax and complementary tax applicable to income derived from their activity in the Free Trade Zone of Madeira;
- d) Exemption from local taxes and levies;
- e) Exemption from extraordinary taxes on profits and expenses.

## **Article 8**

### **(Fiscal incentives on capital transactions)**

Interest on loans contracted by companies established in the Free Trade Zone of Madeira with foreign credit institutions, as well as interest on debt securities issued by those companies, shall be exempt from capital tax and complementary tax, provided that the loaned amount is used for investment and to their normal operations in the said Free Trade Zone.

## **Article 9**

### **(Incentives relating to social security)**

Companies incorporated in the said Free Trade Zone shall not be obliged to deduct any sums for social security contributions from the wages paid to employees under the age of 22 who are admitted to such companies as trainees or apprentices, until the time they reach that age.

## **Article 10**

### **(Tax incentives on the transfer of technology)**

Income derived from the concession or temporary assignment of registered patents, operating licenses, utility models, industrial drawings or models, trade marks, brands or insignias of establishments, processes for manufacture or preservation of products and similar rights, together as well as the income received for the supply of information relating to experience acquired in an industrial, commercial or scientific sector, are free from any income tax or levy.

## **Article 11**

### **(Foreign investment)**

- 1- Direct foreign investment for the incorporation of new companies in the Free Trade Zone of Madeira shall enjoy from the tax benefits outlined in the aforementioned articles.
- 2- Foreign companies registered in the Free Trade Zone of Madeira, as well as their respective shareholders, shall be granted the following guarantees:
  - a) Free repatriation of the invested capital and profits;
  - b) Free transfer of funds connected with commercial transactions;
  - c) No restrictions on import of capital and simplification of the respective administrative procedures.

## **Article 12**

### **(Services companies)**

- 1- The concessionaire of the Free Trade Zone of Madeira and the commercial or financial services companies referred to in clause 1. of Article 4 of the Regulatory Decree Nr. 53/82 dated August 23, may be authorized by the Regional Government of Madeira, acting within the powers granted by Article 2 of the present diploma, to purchase or use, permanent premises in the Autonomous Region of Madeira should this be considered as essential or convenient for a more efficient development of their respective activities.
- 2- The premises referred to in the previous number should be clearly identified as being used by companies registered in the Free Trade Zone of Madeira, no manufacturing, handling or storage of goods' operations being allowed therein.

## **Article 13**

### **(Tax regime of the Concessionaire)**

The tax regime outlined in Articles 6, 7, 8, 9, and 10 shall be applicable to the concessionaire company responsible for running the Free Trade Zone, to the respective shareholders and to the acts and operations carried out in connection with its object, except for the date indicated in paragraph c) of Article 7, which shall be December 31, 2017.

Seen and approved by the Council of Ministers on May 22<sup>nd</sup>, 1986 - *Aníbal Cavaco Silva* - *Miguel José Ribeiro Cadilhe*.

Promulgated on 9th June 1986.

For publishing.

The President of the Republic, MÁRIO SOARES.

Approved on 12th June 1986

The Prime Minister, *Aníbal Cavaco Silva*.