

January 2008

Welcome to our first Sovereign Portugal Newsletter. Our aim is to keep you, our client, informed of any tax issues that might affect you as a resident or property owner in Portugal. We also hope to introduce you to some of the services offered by the Sovereign Group worldwide and to let you know about other items of interest which Sovereign promote.

Please remember to keep us informed of any changes of address and contact details.

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**CHANGES TO CAPITAL GAINS TAXES**

Portugal has been forced to allow tax relief on capital gains realized on the sale of a taxpayer's permanent residence if the sale proceeds are reinvested in the purchase or construction of the taxpayer's permanent residence in another European Union or European Economic Area member state provided, in the last case, that there is exchange of tax information. Previously, the tax relief was available only if the sale proceeds were reinvested in Portugal.

By making tax relief dependent on the exchange of tax information, the new law appears intent on excluding relief if the reinvestment takes place in the territory of Liechtenstein, the only EEA member state that does not have a treaty with Portugal that provides for the exchange of tax information.

Since 1989, Portugal residents have been able to re-invest their capital gains realized on the sale of their permanent residence, within two years, in the purchase or con-

struction of another permanent residence. If no reinvestment takes place, 50 percent of the gain is aggregated into the taxpayers' yearly taxable income and tax paid accordingly.

Action was brought against Portugal by the European Commission -- after repeatedly asking the Portuguese government since 2003, to extend that tax relief to cases of reinvestment within other EU and EEA member states.

In its October 2006 judgment, the ECJ declared that fiscal provisions which limited the aforementioned tax exemption to gains reinvested in the purchase of real property situated in Portuguese territory, violated articles of free movement of persons, free movement of workers and freedom of establishment of the EC Treaty and of the EEA Agreement.

It has taken the European Commission almost five years to force Portugal to comply with this seemingly minor adjustment to

its tax laws, but some other tax rules that contain unjustified restrictions on the fundamental freedoms under the EC Treaty mainly by discriminating between residents and non-residents remain in force.

Residents of Portugal continue to benefit from a 50 percent limitation on the tax on capital gains but it could be just a question of time before Portugal is forced to amend its laws to allow this benefit for non-residents as well.

Please note that even if the funds are to be reinvested within the period of two years, then a capital gains declaration must still be submitted declaring the sale. When the reinvestment takes place, a new tax return must be filed in Portugal declaring the conclusion of the investment in the new permanent residence of the individual.

This law does not apply if you sell a second property in which case the capital gains will have to be paid.

**CAPITAL GAINS DECLARATIONS FOR NON-RESIDENT INDIVIDUALS OR CORPORATE HELD PROPERTIES**

Non-residents of Portugal who sell their Portuguese properties **must always** submit, via their fiscal representative, a capital gains declaration in Portugal declaring the gain, which is the difference between the declared purchase price and declared sale price as shown on the deeds of purchase

and sale. This declaration must be submitted whether there is a gain, loss or nil return.

The current tax rate for non-residents is 25% of the gain and the tax return is submitted in April in the year following the sale.

You may still have to pay

additional capital gains in your country of residence.

Declarations of sale for properties that are corporate held or are held in an offshore company must be submitted, by the fiscal representative, within 30 days of the deed of sale. Heavy fines are imposed if these deadlines are not met.



**Early in 2008  
Sovereign will  
contact you by  
email or letter  
for details of  
your income  
to submit the  
tax returns.**

**Please look  
out for our  
forms!**



## DECLARATION OF RENTAL INCOME FOR PROPERTIES IN PORTUGAL

All rental income derived from properties in Portugal must be declared in Portugal even if the rentals are administered and funds received outside of Portugal.

If your property is owned by a non-resident company or is in your own name and you are not a resident in Portugal, this declaration is made via a tax return due in **April for individuals and May for companies**.

The rental income is declared each year in respect of the previous cal-

endar year's income and the tax rate is 15%.

You must also appoint for yourselves or the company a fiscal representative in Portugal to be your contact with the tax department (please ask for more details if required).

Certain expenses as described below may be set off against the rental income to reduce the tax burden provided they are substantiated by the production of actual invoices and/or receipts in your own name (for individual returns) or in the company

name.

Spreadsheets or statements of expenses are not acceptable.

Allowable expenses are:

Maintenance/repairs

Condominium

Council tax (IMI)

Villa management

**Utilities i.e. water, electricity, gas and telephone are not allowed.**

It is advisable that you keep all original invoices for a period of 10 years in case of a tax department audit.

## IRS TAX RETURNS FOR RESIDENTS OF PORTUGAL

If you are **resident** in Portugal you must by law declare your worldwide income in Portugal whether received in Portugal or in other countries, via a tax return here.

The returns are in respect of the previous calendar year's income.

Medical expenses, pharmacy receipts, education

expenses of dependents, health & life insurances, mortgage payments are all deductible expenses provided they are substantiated by a proper invoice/receipt.

Depending on your type of income, the deadlines for the declarations are:

**March - pensions and salaries.**

**April - other incomes such as self-employed, rental income, investments, dividends, etc.**

It is advisable that you keep all original invoices for a period of 10 years in case of a tax department audit.

## IMI PROPERTY TAX

Your IMI property tax bill (rates, council tax) will usually be payable in two instalments (April and September) and is in respect of the previous calendar year.

The bills are issued by the local tax departments and are sent to the fiscal representative for non-residents or to the residents' permanent address. Each owner of the property will receive a bill in their name for their share of the property.

If the IMI is not paid in the month it is due, then the tax department will levy interest and charges for every month that the bill remains unpaid.

A reminder citation notice is then sent out within a month, followed by a warning notification that a charge will be placed on the property for non payment of the debt.

A final warning is then sent informing that the charge has been placed

and that the property is being advertised for sale.

If you are a non-resident of Portugal and your IMI is sent to your home address this could mean that you are wrongly registered as a resident in Portugal and you must appoint a fiscal representative.

Contact us for help if you think this is your case!

## THE SOVEREIGN ART FOUNDATION



**Haris Purnomo,  
Child in Red**

Winner of the Public Vote Asian Prize 2007.  
Estimate US\$4,500 –  
5,500 Sold for US\$30,000

The Sovereign Art Foundation is a registered charity in Hong Kong established in 2003 with the goal of supporting worthy charitable artistic causes and is achieved through the annual Sovereign European and Asian Art Prizes.

For each prize, artists are invited to enter by sending

a digital photograph of their entry to be judged by a panel of art experts and professionals who select the best 30 entries. These entries are exhibited at a prestigious venue in London and Hong Kong during which the first prizes are awarded, US\$25,000 cash for Asia and EUR 25,000 for Europe. There is also a special prize voted for by the public who cast their votes at the exhibition or online. After the exhibition, the final 30 selections, apart from the winning painting which becomes the property of the Foundation, are auctioned off at a special charity dinner. 50% of the sale proceeds goes to the artist and 50% goes to the Founda-

tion to help with its charitable work which includes setting up of grants and fellowship programmes to assist talented emerging artists. The funds raised this year will be applied towards a programme run by the Hong Kong Youth Arts Festival that teaches disabled children how to paint, and towards setting up an art school within the M'Lop Tapang project in Cambodia, a community-based organisation that aims to empower street children by giving them access to learning tools and resources. Both these projects will give opportunities to children who would ordinarily have none. We believe that the art scene is currently a fairly intimidating

arena not easily accessible to the general public. As a larger number of artists become aware of these prestigious prizes, we look forward to receiving even more entries and raising additional funds in 2008.



**Damien Cadio—Esercito**

First Prize winner of the 2007 Sovereign European Art Prize

See the other finalists on [www.SovereignArtFoundation.com](http://www.SovereignArtFoundation.com)

## STOP PRESS- 2008 CAR TAX

Car road tax has changed. It is now called Imposto Único de Circulação and rather than being paid in May/June each year, payment is due in the month coinciding with the date of the first registration of the vehicle, as stated in the vehicle registration document (green book). It can be paid at the local tax department or, for a small fee, we can apply on your behalf. You will no longer receive a stamp to be displayed on the windscreen but rather you must keep the payment receipt with your car documents.

## THE SOVEREIGN PLANETARY FUND

Sovereign are delighted to announce that the Planetary Fund, which is managed by Sovereign Asset Management (SAM), was recently voted number 1 fund of its class in the world.

Since its launch in February 2003, Planetary Fund has returned over 232% to investors, equivalent to 33% per annum. This is more than double the return of the investment benchmark MSCI World Index, which has achieved 102% over the same period. To put that into perspective, an investment of \$100,000 in February 2003 would today be worth over \$337,000!

If you would like further information on the Planetary Fund, or any of SAM's other funds, please feel free to contact the SAM team on [sam@SovereignGroup.com](mailto:sam@SovereignGroup.com)

## THE SOVEREIGN REPORT

The Sovereign Report is published quarterly and can be sent to you by email or by post. It provides up to date technical information on new developments in both the onshore and offshore jurisdictions which are relevant to offshore or onshore tax planning. The Report includes details of relevant changes in the law, recent court cases, tax treaty developments, details of new corporate or tax legislation and much more. In short, The Sovereign Report gives you all the information that you will need to stay current with what's happening onshore and offshore. Subscribe online at our website or contact your local Sovereign Office to receive the next issue.

*Please note that Sovereign is committed to ensuring that your privacy is protected. All details submitted will be held in the strictest confidence.*

## Sovereign Consultoria e Planeamento Fiscal Lda

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The Sovereign Group has been advising resident and non-resident clients on all matters relating to property ownership in Portugal for many years. Sovereign Consultoria first established an office in Portugal in 1999 specifically to offer tax advice to its clients. With our full complement of bi-lingual administrative staff, we are able to keep up to date with the ever-changing fiscal demands placed on property owners. Our regular contact with the local Tax Departments and reputation for prompt, quality service has enabled us to establish good relationships with lawyers all over Portugal, who trust Sovereign to resolve fiscal matters for their clients. We ensure that confidentiality is applied to all our work and that our fees remain competitive. Do not hesitate to contact us should you need any fiscal advice.

### Meet the Portugal Office

**Nigel Anteney-Hoare**—Managing Director has been with the Sovereign Group since 1998.

**Pam da Silva**—Joined in 2000 as Nigel's PA and assists clients with their company held properties.

**Joaquim Fava**—Head accountant since 1999.

**Andreia Vieira**—Accountant since 1998.

**Marina Dutra**—Accountant since 2000.

**Laura Lourenço**—Joined in 2004 and is our accountant responsible for Sovereign's internal accounts.

**Isobel Costa**—Joined in 1999—Responsible for tax compliance and fiscal representations for non-residents.

**Monica Gonçalves**—Joined in 2004 and is responsible for client accounts.

**Marina Hardy**—Joined 2005 to administer IMI invoices.

**Andreia Pereira**—Joined in 2007 as administrative assistant.

**Julia Alves**—Head receptionist with Sovereign since 2004.

### Sovereign Group Services

The first Sovereign office opened in Gibraltar in 1987 but we now have offices or agents in all the major offshore & onshore jurisdictions. Traditionally, our main business has been the setting up and management of offshore and onshore companies and trusts to assist with tax planning and asset protection. Now our range of services has expanded so we now offer a wide range of services some of which are below.

**Register a Yacht.com** An efficient and professional worldwide yacht registration service at competitive prices. Visit [www.RegisteraYacht.com](http://www.RegisteraYacht.com)

**Sovereign Alternative** Focusing exclusively on issues that directly affect alternative lifestyles. For further information visit [www.SovereignAlternative.com](http://www.SovereignAlternative.com)

**Sovereign Asset Management** Providing advice and management on investment related matters, specific to client needs.

**Sovereign Education** The sole provider of international and offshore tax planning training for EuroMoney.

**Sovereign Group Partners LLP** Helping smaller corporates gain access to private equity capital and debt financing.

**The Sovereign Art Foundation** A visual arts prize, to give recognition to some of the most important artists of our time.

**Sovereign Insurance Services** General and life insurance intermediary.

**Visit our web site on [www.SovereignGroup.com](http://www.SovereignGroup.com) for more information on any of the above!**

*Whilst every effort has been made to ensure that the details contained herein are correct and up-to-date, this information does not constitute legal or other professional advice. We do not accept any responsibility, legal or otherwise, for any error or omission.*