

## OUTLINE

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**Matter:** Portuguese Golden Visa (“ARI”) application

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### 1. Legal Requirements for obtaining the residence permit (under the Golden Visa program)

Under the Golden Visa (“*Autorização de Residência para Actividade de Investimento*” or “*ARI*”) program a person from a country outside the European Union (EU), the European Economic Area (EEA) or Switzerland, can make a qualifying investment in Portugal and be granted a Portuguese residence permit for himself and his immediate family members.

Therefore, this is a form of a citizenship by investment program, where the potential investor must also fulfil certain requirements in order to gain residency in Portugal.

The applicant must:

- Hold a valid passport and legally enter Portuguese territory;
- Carry out in Portuguese territory, individually or through a limited liability company of which the applicant is the shareholder, at least one of the investment types listed in **Annex I** hereto, i.e.:
  - Capital transfer (or investment in shares or quotas);
  - Creation of at least 10 job positions; and
  - Purchase of real estate;
- Maintain the investment, bank deposit or title to property or shares, whichever the case, for a minimum period of 5 years from the date of the granting of the residence permit;
- Sign an affidavit under oath swearing that he shall comply with the minimum requirements foreseen in the previous paragraphs;
- Open a bank account in Portugal;
- Obtain the statements or certificates required by law as means of evidence of the minimum investment in capital, shares and/or real estate mentioned in Annex I;
- Not have: (i) a prior conviction for an offence punishable in Portugal with imprisonment for more than one year, (ii) been banned from entering national territory, following a previous expulsion from the country; (iii) had an alert in his name issued by the Schengen Information System (listed person) or by the Integrated Information System of the Foreign Citizens and Borders Service (“SEF”);
- Obtain up-to-date certificates issued by the Portuguese Tax Authorities and by the Portuguese Social Security confirming the absence of any debts to those entities; and
- Have a health insurance covering the Portuguese territory.

## 2. Requirements for renewal of the residence permit

The applicant must:

- Provide evidence that he has remained in Portuguese Territory for:
  - 7 days, consecutive or alternate, during the first year; and
  - 14 days, consecutive or alternate, in the subsequent two-year periods for renewal;
- Submit the means of evidence required by law according to the type of investment mentioned in Annex I (e.g. in case of purchase of real estate, the applicant must deliver an up-to-date certificate issued by the Property Register showing all entries, as proof that he continues to have ownership of the property free from any liens and encumbrances);
- Obtain the required affidavit and up-to-date certificates mentioned in chapter 1. above; and
- Have an health insurance covering the Portuguese territory (unless he is registered with the Portuguese Social Security)

## 3. Necessary steps for obtaining the residence permit (in case of purchase of real estate)

See Annex II hereto.

## 4. Advantages of the Golden Visa program

The following advantages associated with the Golden Visa were envisaged by the Portuguese Ministry of Foreign Affairs:

- Resident visa exemption to enter Portugal;
- Living and working in Portugal, while maintaining residence in another country;
- Visa exemption for travelling within the Schengen Area;
- Family reunification (the family reunification application may be submitted simultaneously with the Golden visa application);
- Possibility of obtaining a permanent residence permit after 5 years; and
- Possibility of acquiring Portuguese (and EU) citizenship after 5 years.

There are of course other advantages, e.g. the possibility of mitigating any financial and political risk in the country of origin, or establishing a basis for expanding a private business to a country within the EU borders without considerable investment.

## 5. Alternatives to the Golden Visa

Notwithstanding the abovementioned advantages of Golden Visa program, please note that this is a costly and lengthy process. There are other less expensive options that might be suitable to the client's situation, namely the following visas:

- 1) Residence Visa for Immigrant Entrepreneurs (also known as D2 Visa), which is a type of visa for entrepreneurs who intend to invest in Portugal; and
- 2) Passive Income Visa (also known as D7 Visa), which is aimed at foreign citizens who intend to relocate to Portugal and are able to prove to the

Portuguese authorities that they have enough income to support their life in Portugal.

Both these visas:

- Allow for a maximum of two entries and a stay in Portugal up to 4 months.
- Involve a two-step process that allows third country residents (outside the EU) to obtain a (temporary) residence permit in Portugal (with the possibility of applying for permanent residency or citizenship after 5 years).
- Have similar requirements:
  - The applicant must not have (i) a prior conviction for an offence punishable in Portugal with imprisonment for more than one year, (ii) been banned from entering national territory, following a previous expulsion from the country; (iii) had an alert in his name issued by the Schengen Information System (listed person) or by the Integrated Information System of the Foreign Citizens and Borders Service (“SEF”);
  - The applicant must have sufficient means of subsistence and provide proof of accommodations in Portugal; and
  - The applicant must have a valid travel insurance, allowing medical coverage, including medical emergencies and repatriation.
- There are nonetheless some specific requirements for each one of these visas:

Residence Visa for Immigrant Entrepreneurs (D2 Visa):

- Supporting document of the investments made by the applicant; or
- Evidence that the applicant holds available financial resources in Portugal, including those resulting from loans obtained from a banking institution in Portugal, and that he intends to make investments in Portuguese territory.

Passive Income Visa (D7 Visa):

- Proof of sufficient funds to support the life in Portugal (i.e. €7,620 for first adult applicant, €3,810 for second adult applicant, €2,286 for each family member under 18 years of age);
- Proof that these funds are available for use in Portugal;
- Pensioners or retired persons → must produce in the consular office documental proof of their retirement indicating the amount that they receive and the availability of such amounts while living in Portugal;
- Person of independent means → must provide some documental proof to the Portuguese consulate showing the nature and amount of their income (e.g. from movable or immovable property, intellectual or financial assets), as well as the availability of those funds while in Portugal.

See attached **Annex III** (Comparison chart) with the main differences between these two visas in relation to the Golden Visa.

## ANNEX I

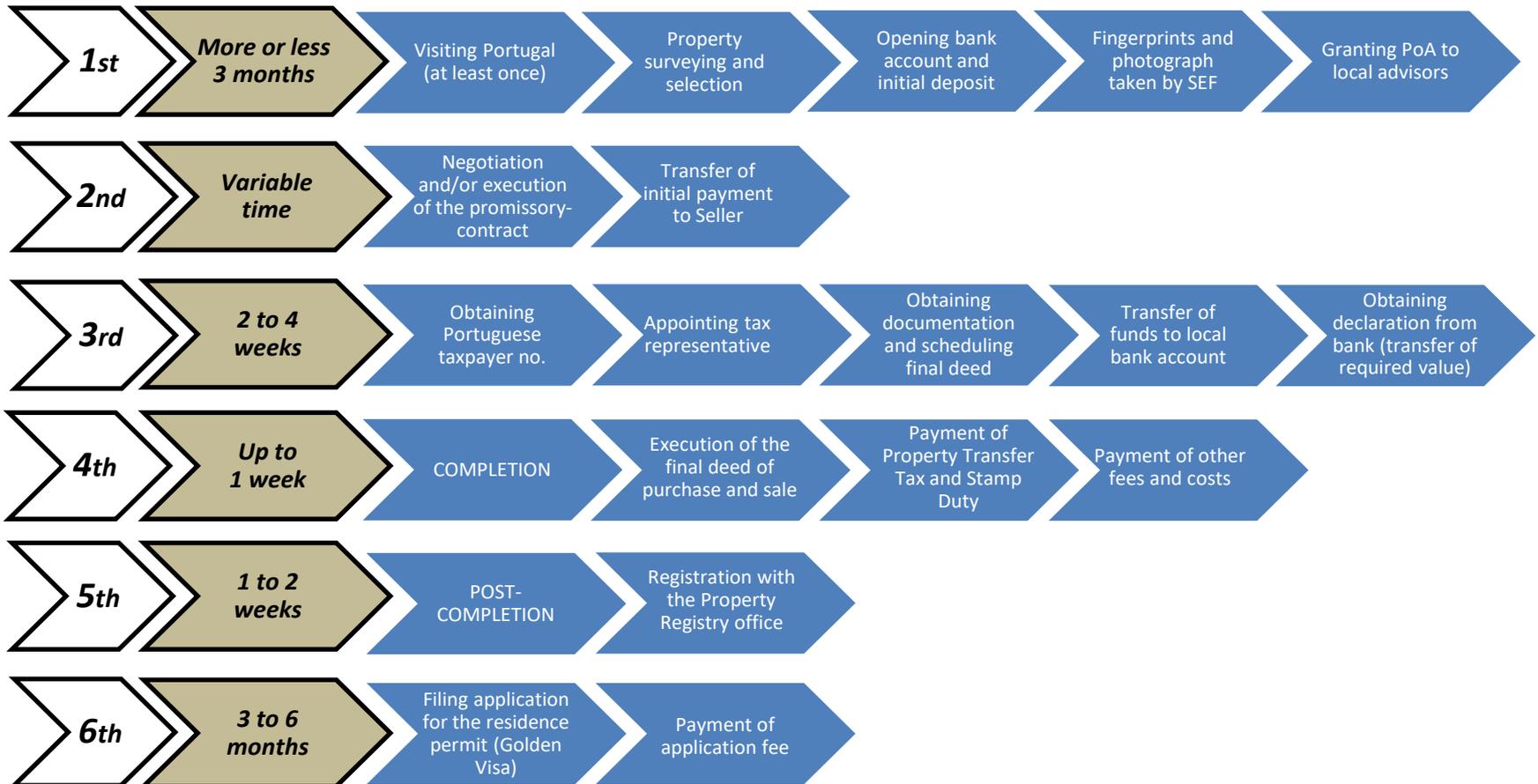
### Golden Visa: Alternative Investment Activity

Type of Investment	Requirements <sup>(2)</sup>
<b>Capital transfer (or investment in shares or quotas)</b>	<p>... with a value of not less than <b>€ 1,000,000</b>; or</p> <p>... with a value of not less than <b>€ 350,000</b> for:</p> <ul style="list-style-type: none"> <li>(i) investment in research activities conducted by public or private scientific research institutions involved in the national scientific or technologic system <sup>(1)</sup>;</li> <li>(ii) the acquisition of units of investment funds or venture capital funds dedicated to the capitalisation of companies, created under the laws of Portugal, whose maturity at the moment of the investment is at least of five years and provided that at least 60% of the investment is made in commercial companies with head office in Portuguese territory;</li> <li>(iii) incorporation of a commercial company with registered office in Portugal combined with the creation of 5 permanent job positions, or for reinforcement of the share capital of an existing commercial company with registered office in Portugal combined with the creation of 5 permanent job positions, and for a minimum period of three years; or</li> </ul> <p>... with a value of not less than <b>€ 250,000</b> for investment in artistic output or supporting the arts, for reconstruction or refurbishment of the national heritage, through the local and central authorities, public institutions, public corporate sector, public foundations, private foundations of public interest, local authorities, local corporate sector organizations, local associations and public cultural associations, which pursue activities related to artistic output, reconstruction or maintenance of the national heritage. <sup>(1)</sup></p>
<b>Creation of at least 10 job positions</b>	<p>... provided that all employees have been registered in the Portuguese Social Security System. <sup>(1)</sup></p>
<b>Purchase of real estate</b>	<p>... with a value of not less than <b>€ 500,000</b>. This <u>also includes</u>: (i) a tenancy in common purchase of property, provided that the share of the co-owner applying for the residence permit has a minimum value of € 500,000; (ii) the execution of promissory-contracts where a non-refundable deposit or advanced payment has been paid for € 500,000 or more, provided that the final deeds are exhibited before renewing the residence title; (iii) the cases where the properties have encumbrances of a value exceeding € 500,000; and (iv) the cases where properties are leased for commercial, farming or leisure purposes <sup>(1)</sup>; or</p> <p>... with construction dating back more than 30 years <u>or</u> located in urban regeneration areas, for refurbishing, for a value of not less than <b>€ 350,000</b>. <sup>(1)</sup></p>

<sup>(1)</sup> In all these cases the amount of the investment may be reduced by 20% when in a low density territory (i.e. NUTS III level with (i) less than 100 inhabitants per Km<sup>2</sup> or (ii) a PIB per capita of less than 75% of the national average).

<sup>(2)</sup> A bill has been introduced into Portuguese Parliament to amend the current rules on the Golden Visa. If approved (i) the purchase of real estate will be limited to certain districts outside Lisbon and Porto metropolitan areas and (ii) the abovementioned minimum value of investment and number of job positions will be increased.

# Annex II: Steps for obtaining the Golden Visa (purchase of real estate)



## ANNEX III

### Comparison Chart

	Golden Visa	D2 Visa	D7 Visa
<b>Validity (Visa)</b>	<ul style="list-style-type: none"> <li>• <u>1 year</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>4 months</u></li> </ul>	
<b>Timeline</b>	<ul style="list-style-type: none"> <li>• Up to <u>1 year</u> to obtain the residence permit</li> </ul>	<ul style="list-style-type: none"> <li>• Up to <u>60 days</u> to obtain the visa;</li> <li>• <u>3 to 6 months</u> to get an appointment at SEF<sup>1</sup> and apply for the residence permit<sup>2</sup>;</li> <li>• Up to <u>6 months</u> to obtain the residence permit.</li> </ul>	
<b>Permanent residence permit</b>	<ul style="list-style-type: none"> <li>• Possibility of obtaining a permanent residence permit after <u>5 years</u></li> </ul>		
<b>Portuguese (and EU) citizenship</b>	<ul style="list-style-type: none"> <li>• Possibility of acquiring Portuguese (and EU) citizenship after <u>5 years</u></li> </ul>		
<b>Registration Fees</b>	<ul style="list-style-type: none"> <li>• Receipt and analysis of application: € 532.70</li> <li>• Issuance of residence permit: € 5,324.60</li> <li>• Renewal of residence permit: € 2,662.30</li> </ul>	<ul style="list-style-type: none"> <li>• Administrative fees for processing national visa applications: € 90.00</li> <li>• Receipt and analysis to issue or renew residence permit: € 83.10</li> <li>• Issuance of the residence permit: € 72.00</li> </ul>	
<b>Visa exemption for travelling within the Schengen Area</b>	<ul style="list-style-type: none"> <li>• Yes</li> </ul>	<ul style="list-style-type: none"> <li>• No (only after obtaining the residence permit)</li> </ul>	
<b>Mandatory stay in Portuguese territory</b>	<ul style="list-style-type: none"> <li>• Must spend 7 days in the first year and 14 days in the subsequent years (consecutively or non-consecutively)</li> </ul>	<ul style="list-style-type: none"> <li>• Except in the case of duly justified personal or professional reasons, the temporary residence holder cannot be outside Portugal for more than 6 consecutive months or 8 non-consecutive months during the validity of each permit.</li> </ul>	
<b>Family reunification</b>	<ul style="list-style-type: none"> <li>• Application for Family Reunification may be submitted simultaneously with the Golden visa application.</li> </ul>	<ul style="list-style-type: none"> <li>• Application for Family Reunification may be submitted simultaneously with the application for residence permit of the visa holder.</li> </ul>	

<sup>1</sup> *i.e* The Portuguese Immigration and Borders Service.

<sup>2</sup> Although the D2 and D7 visas are only valid for 4 months, the proof of the scheduled appointment at SEF is enough for the applicant to be able to remain in Portuguese territory (until such appointment). However, during this period the applicant cannot leave the country at the risk of being deported from EU area.