



AMENDMENTS TO THE IMT

THE STATE BUDGET FOR 2023

The State Budget (SB) for 2023, approved by Law 24-D/2022, of 30 December, made some changes to the *Código do Imposto Municipal sobre as Transmissões Onerosas de Imóveis* (CIMT).

Of the changes made to IMT, we highlight the following two:

1. Alteration to the IMT exemption regime applied to the acquisition of buildings for resale;
2. IMT taxation on property swaps.

ALTERATION OF THE CONCEPT OF ACTIVITY OF PURCHASE OF PROPERTIES FOR RESALE

The CIMT provides for an IMT exemption in the acquisition of buildings which are destined for resale.

Therefore, the taxpayers of this tax who habitually exercise the activity of purchasing real estate for resale, are exempt from the payment of this tax on the acquisition of buildings, provided that the exercise of the activity of acquisition of buildings for resale is

previously certified by the Tax Administration.

If the exemption is applicable right from the beginning and the taxpayer does not resell the building within 3 years, he is obliged to pay the IMT that would be due at the moment of the acquisition of the building.

Under the terms of the previous regime, the taxpayer was considered to habitually exercise the activity of buying real estate for resale when he practised at least one purchase and resale transaction of a building in the previous financial year.

AMENDMENT: The IMT taxpayer is now considered to habitually practice the activity of buying property for resale only if, in the last two years, he has acquired at least one building for resale, in each year, and has resold it.

With this amendment the attribution of the previous exemption of IMT payment in the activity of purchase of real estate for resale became more demanding.

IMT TAXATION ON THE SWAP OF PROPERTY

In respect of IMT tax on property swaps, there is a special rule for determining the IMT taxable value.

Therefore, in cases of exchange of buildings, IMT is only due on the difference of values declared in the exchange act.

For example: A exchanges a building with B and both buildings have the same value.

According to the special rule for determining the taxable value applicable to the exchange of buildings, the operation will not imply the payment of IMT, as the exchanged goods are of equal value.

If the property exchanged is not of equal value, the person who receives a building of greater value will be liable to pay IMT, and IMT will only be charged on the difference in value.

AMENDMENT: Point 6 has been added to article 12 of the CIMT, which establishes the derogation from this special rule for determining the taxable amount for IMT.

With the referred amendment, if any of the exchangers sells the property

exchanged, within a period of one year counting from the date of the exchange, he will be obliged to pay the IMT for the total value of the building, at the moment of the acquisition of the building.

These tax alterations promoted by the State Budget for 2023 to the CIMT were aimed at avoiding behaviours whose main objective would be the non-payment of IMT.

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