

ALOJAMENTO LOCAL

A QUICK GUIDE TO TOURIST RENTALS IN PORTUGAL (V1.8 2021-02-25)

Document based on Decree-Law N° 128/2014 from 29th August, updated by Decree-Law N° 63/2015 from 23rd April, Decree-Law N° 62/2018 from 22nd August, and Ordinance n.º 262/2020 from 6th de November.

NOTE: This document applies to the current situation for new properties registered after October 21st 2018 in mainland Portugal (excluding Madeira and the Açores, which have their own legislation). Legacy situations are not covered.

BASIC STEPS TO TAKE

1. Start business activity (iniciar actividade)

i *Note: This step assumes you have done a basic Business Plan and have decided to initiate the tourist rental activity as an individual, rather than a company, which remains outside the scope of this document. We highly recommend that this step is done in conjunction with a specialized accountant.*

You must have a NIF (tax number, or “número de contribuinte”) and then register as an independent business owner (Empresário em Nome Individual) with the activity code (CAE) 55201, which corresponds to the activity of Alojamento Local. If you are planning to hire a company to manage the check-ins/outs, cleaning, washing and other aspects of the business, it is almost always beneficial to register for VAT. Otherwise, the registration should be done such that you are exempt from paying VAT during at least the first year. If you have access to your personal area of the Finanças website, you can initiate the business activity online.

2. Register the property

i *This may be done online if you possess a “Cartão de Cidadão” or the Chave Móvel Digital (which for non-Portuguese nationals has to be requested personally at the Loja do Cidadão). Otherwise, the property registration must be done in person, at the local city hall (Câmara). The following is necessary:*

- *Complete all details in this form:*
https://bde.portaldaempresa.pt/balcaodoempreendedor/Resources/pdf/forms/form_00000000-0000-0000-1111-000000000006.pdf
- *A copy of your passport or other identity document*
- *A copy of the tax document indicating ownership (caderneta predial)*

- Copy of rental contract or other legal document authorizing the activity of Alojamento Local, if not the owner of the property
- Copy of the business activity registration from Step 1
- Authorization by the condominium, only in the case of Hostels
- If the property was built after 1951, you may be asked to present the “Licença de Utilização”. In Lisbon, all Alojamento Local properties must have a residential use licence. In other municipalities (e.g. Porto), a Services licence may be permitted. The relevant municipality should be consulted.

The local city hall has 10 working days (20, in the case of hostels) to decide if the documentation is correct and everything is in order to grant the Alojamento Local registration number. You should receive a process number immediately, by email, and then after this period of 10 working days a document indicating the AL number, which should be published in all adverts and marketing material, including listings on Airbnb, Booking, Tripadvisor, etc.

If, after 10 working days (20 in the case of Hostels), no information has been received, you can also check the online database of Alojamento Local properties, run by Turismo de Portugal and available here:

<https://rnt.turismodeportugal.pt/RNAL/ConsultaRegisto.aspx?Origem=CP&FiltroVisivel=True>

The local municipality has 30 days after the date of registration to inspect the property and make sure all requirements are met. Not all municipalities do this (e.g., at the time of writing, it is absolutely unheard of in Lisbon), but some do and may even charge for the inspection - prices can be seen on the relevant Câmara's website. See the *Ficha Técnica da ASAE* in the useful links section for ideas about what they might be checking for.

CATEGORY, REQUIREMENTS, CAPACITY

3. Category of the Establishment

i When completing the form in Step 2, above, it is necessary to indicate which category the property is being registered in. These are: *Morada* (detached properties), *Apartamento* (apartments, rented as a whole unit), *Estabelecimento de Hospedagem* (properties with several rooms, each rented individually, e.g. guesthouses) and *Quartos* (maximum of 3 rooms in a property, rented individually, and only when the property is registered as the permanent residence of the business owner). There is no legal restriction to registering an AL in ANY category when it is the permanent residence of the owner, although some mortgage contracts prohibit it - check with your bank in this case.

Within the category of *Estabelecimento de Hospedagem*, there is a sub-category of *Hostel* (mostly made up of dormitory type rooms), which is the only category which requires authorization from the condominium.

The revenue from *Apartamentos* and *Moradias* are taxed at your IRS rate, on 35% of the total earnings. For *Estabelecimentos de Hospedagem*, it is 15%. So, if your IRS tax rate is 25% and you have an apartment that earns 10.000€ gross per year, you will pay IRS tax of

$25\% \times 35\% \times 10000 = 875\text{€}$

Owners of Apartamentos and Moradias are exempt from social security payments, when the only revenue is from this business (see section 15).

4. Requirements for Alojamento Local

i Note: we highly recommend consulting the relevant legislation for an exhaustive list of requirements. We are not responsible for any consequences caused by not following local and national laws.

- Be in reasonable condition, including all equipment
- Be connected to the public water supply, or sufficiently controlled private supply, and be connected to a suitable sewerage system. Hot and cold water should be available.
- Have a window or opening to the exterior, providing sufficient ventilation, and have a system that allows all natural light to be blocked
- Possess adequate equipment, furniture and utensils, and all doors must provide a system for the security and privacy of the guests.
- Good conditions of hygiene and cleanliness
- Security: First aid kit, fire extinguisher, fire blanket, 112 emergency number & no-smoking signs
- Establishments with capacity for more than 10 guests should consult the relevant legislation to comply with fire safety rules, meaning the possible installation of smoke detectors, sprinklers, fire extinguishers, relevant signage, and a central fire alarm system. We recommend consulting with a specialist fire safety company in this case.
- Official complaints book (Livro de Reclamações)
- Alojamento Local sign, according to characteristics defined in the Decree-Law or the 2020 Ordinance (smaller size) and installed next to the main door of the establishment. Can be ordered from suppliers, online or otherwise. Not required (in mainland Portugal) for AL's registered in the "Moradia" category.
- Information booklet, available in 4 different languages which must include Portuguese and English. Includes information about the establishment and its rules & regulations, rules for the collection of waste, instructions for any on-site equipment, rules regarding noise in the establishment and vicinity, emergency telephone number of the business owner, and rules of the condominium, if applicable.
- The business must be covered by a multirisk insurance policy. Details of such a policy will be defined in an upcoming decree. However, we highly recommend that you join the national Alojamento Local association (ALEP). Apart from defending all

AL owners' interests, they include the necessary insurance for an AL property in their yearly quota which, for individuals, is just 88€/year. More info: <http://alep.pt>

5. Maximum capacity

i Alojamento Local establishments are limited to a maximum capacity of 9 rooms and 30 guests, except in the case of Hostels, which have unlimited capacity, and Quartos, which have a capacity of 3 rooms.

Furthermore, the capacity is limited to 2 guests per room, with the possibility of a further 2 guests in the living room in the case of Apartamentos and Moradias.

It is only possible to run more than 9 Alojamento Local establishments in one building if the number does not exceed 75% of the total number of independent units.

OPERATIONAL OBLIGATIONS

6. Reporting to SEF

i It is obligatory to report to SEF the stays of all foreign citizens up until 3 days after the check-out. It is possible to do this online at <https://siba.sef.pt/> (registration required first)

7. City Tax

i In some municipalities (e.g. Lisbon, Porto, Cascais, and others), it is necessary to charge the municipal tourist tax (taxa turística), on top of the price of the stay, to be paid to the local council, some of which have online platforms for doing this.

8. Arbitration Centres

i It is obligatory to have on public display a list of the local arbitration centres (Centros de Arbitragem) in case of any litigious situation.

9. INE Statistical Reports

i You may be required to send monthly statistics regarding the number of guests at your establishment if so required by the National Statistics Institute (INE), but it is not obligatory if you are not contacted.

10. Complaints Book (Livro de Reclamações)

i As a business, you are required by law to make available a Complaints Book to your clients. Since 2018, this should be in both physical and digital formats. The physical complaints book can be bought from the Casa da Moeda, either from their physical stores or online at https://www.incm.pt/portal/loja_detalhe.jsp?codigo=101367. To obtain the electronic version you should register at <https://www.livroreclamacoes.pt/pt/web/guest/registar>. In both cases, you should specify the “Entidade Reguladora” as ASAE.

FISCAL OBLIGATIONS

11. IRS Declarations

i NOTE: We are assuming that you declare your earnings as an individual via IRS declarations and the simplified regime of accounting. Other situations are not covered. We recommend that ALL situations be consulted with a specialist accountant.

Yearly IRS declarations should be made, with earnings from Alojamento Local establishments declared in Category B. For Apartments and Moradias, 35% (50% in Lisbon's areas of contention) of total earnings are taxed at your IRS tax rate (which for non-residents is fixed at 25%). Establishments of the type Estabelecimentos de Hospedagem and Quartos have just 15% of earnings taxed, at the IRS rate of the business owner. These percentages are called “coefficients”.

Example: Apartment with total gross earnings of 15.000€. IRS tax rate of 25%. In this case, you are liable to pay tax on your IRS for: $15000 \times 35\% \times 25\% = 1.312,50\text{€}$ (one thousand three hundred and twelve euros, and fifty cents).

If total earnings surpass 27.306€, it is necessary to justify expenses of 35% of the total with official invoices, in order to maintain the rates above.

Note: In the State Budget for 2020, a new measure was passed for the coefficient for Apartamentos or Moradias in “Areas of Contention” to be increased to 50%

12. IVA Declarations

i Whether or not you declare value-added tax (IVA) will depend on if you are registered within the IVA regime or not. This is obligatory when you have a declared turnover of more than 10.000€ (or proportional amount) during the previous fiscal year. It is also fiscally beneficial to be in this regime if you have a lot of expenses, for example when using the services of a property management company.

IVA declarations are made every quarter, or you can opt to declare monthly

IVA is taxed at the special rate of 6% of the price charged to the guest

If you work with booking portals based outside Portugal, such as Airbnb or Booking, you should register your NIF for “Operações Intracomunitárias”, which will mean that these portals do not add VAT on top of their commission rates, but instead use the reverse charge mechanism. Note that if you are exempt from IVA declarations, you should still declare the reverse charge IVA via the Finanças website. You can check if your NIF is correctly registered in this way at the VIES site: http://ec.europa.eu/taxation_customs/vies/

13. Invoicing

i *Even though most foreign guests will not require the physical document, an official invoice has to be issued for every payment. This is done via an officially registered invoicing program, or via the Portal das Finanças. The amount invoiced should be the total amount **including** any commissions you pay to booking portals such as Airbnb or Booking.*

If you are using a program and not the Finanças website, you will have to export the SAF-T file and then upload it to the Finanças website. This is how the fiscal authorities know how much your establishment is earning.

14. Modelo 30 & Retenções na Fonte (tax withholding system)

i *If you have paid commission or other expenses to any foreign company (e.g. Airbnb or Booking.com commissions), then you should declare this via the Modelo 30 transaction, on the Finanças website, using the Portuguese NIF of these companies (provided by the Finanças, if not known). Strictly speaking, all these companies should provide you with a 21-RFI form and Certificate of Fiscal Residence, but many don't even know they have this obligation.*

If a company doesn't provide a 21-RFI form and the residence certificate, then strictly speaking you are legally obliged to pay a “Retenção na Fonte” (withholding tax) to the state – 25% of the payment made to each company, declared via the Finanças website, and paid until the 20th day of the month following the date of the company's invoice.

15. Capital Gains Tax

i *Properties used for the activity of Alojamento Local are no longer liable to a property gains tax charged on Category B of the IRS declaration, unless they are sold in the three years following the termination of the AL activity. In this case, capital gains are calculated at 95% of the difference between the purchase and selling prices, and you are taxed (on Category B of IRS) at your IRS rate on this amount when the property is sold. Simple example:*

- *Property bought in 2016 for 200.000€*

- *Property used for Alojamento Local starting in 2018*
- *Alojamento Local activity stopped in 2019*
- *Property sold in 2021 for 300.000€*

In the above case, in 2021, when the property is sold, there is a capital gains tax charged at the owner's IRS rate on 95% of 300.000-200.000 = 95% of 100.000€. If the owner's IRS rate is 35%, this means a total CGT of 33.250€ (thirty-three thousand, two hundred and fifty euros). This is declared in Category B of the IRS declaration.

NOTE: *In the case above, if the owner stops the AL activity in 2019 and then waits for 3 years before selling in 2022, no Category B capital gains tax is paid! Category B CGT is the specific tax for AL properties. The normal CGT paid when selling a property still applies and is 50% of the difference between the purchase and sales prices, minus deductible costs, and taxed at your IRS rate.*

16. Social Security

i *As from 1st January 2019, if your earnings derive solely from the activity of Alojamento Local in the Apartamento or Moradia categories, you are not liable for social security payments.*

Also, even if you are liable (for example, your earnings derive from the Estabelecimento de Hospedagem category), if you are registering for social security payments for the first time it is usually possible to ask for exemption for 1 year.

Since each situation is different, and often complicated, we recommend consulting the Portuguese Social Security website directly (<http://www.seg-social.pt>) or arranging a personal appointment.

MISCELLANEOUS

17. Areas of Contention

i *The most recent Alojamento Local legislation has introduced the concept of Áreas de Contenção, or Areas of Contention. It provides a legal framework for local municipalities to be able to define these areas where Alojamento Local can be restricted, according to a number of conditions, such as:*

- *Suspension of new AL registrations*
- *Prohibition of transferring the AL licence to another person or commercial entity for Apartamentos or Moradias*
- *Limitation of AL licences to a % of registered residential homes*

- Limit of 7 AL establishments registered to the same owner/manager

Each municipality will be able to clarify which areas, if any, are Áreas de Contenção, and which restrictive conditions apply. At the time of writing, Areas of Contention exist only in Lisbon and Ericeira.

Note: In the State Budget for 2020, the government included the measure for AL properties in the Apartamento and Moradia categories to be taxed on 50% of total earnings (instead of 35%), when in Areas of Contention, and in Lisbon, this is now the case.

18. Useful links



Decree-Law Nº 128/2014 from 29th August: <https://dre.pt/web/guest/pesquisa/-/search/56384880/details/maximized>

Decree-Law Nº 63/2015 from 23rd April: <https://dre.pt/home/-/dre/67059141/details/maximized>

Decree-Law Nº 62/2018 from 22nd August: <https://dre.pt/web/guest/pesquisa/-/search/116152179/details/maximized>

Ordinance (Portaria) Law Nº 262/2020 from 6th November: <https://dre.pt/pesquisa/-/search/147814581/details/maximized>

AL Association (yearly fee includes insurance!): <http://alep.pt>

Portal das Finanças: <https://www.portaldasfinancas.gov.pt/>

Social Security: <http://www.seg-social.pt/>

AL registration online: <https://eportugal.gov.pt/fichas-de-enquadramento/alojamento-local>

Chave Móvel Digital: <https://eportugal.gov.pt/pt/servicos/obter-informacoes-sobre-a-chave-movel-digital>

SEF Registration: <https://siba.sef.pt/>

Lisbon Tourist Tax: <http://www.cm-lisboa.pt/servicos/pedidos/pagamentos-taxas-e-tarifas/taxa-municipal-turistica-de-dormida/o-que>

Porto Tourist Tax: http://www.cm-porto.pt/turismo/taxa-turistica_17

Centros de Arbitragem: <http://www.consumidor.gov.pt/gestao-ficheiros-externos/ral-documento-explicativo-sobre-o-artigo-18-da-lei-1442015-pdf.aspx>

Guía Técnica de AL:

<https://business.turismodeportugal.pt/SiteCollectionDocuments/alojamento-local/guia-alojamento-local-out-2018.pdf>

Ficha Técnica da ASAE:

<https://business.turismodeportugal.pt/SiteCollectionDocuments/alojamento-local/ficha-tecnica-fiscalizacao-AL-ASAE-2016.pdf>

Areas of Contention maps for Lisbon: <http://lxi.cm-lisboa.pt/lxi/>
(Click the Book icon – Módulo Temática – then Serviços, Turismo, Alojamento Local)

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Annex: Changelog

i 2021-02-25: Version 1.8

- Section 15: Small correction for the Capital Gains Tax example.

2021-01-05: Version 1.7

- Section 15: Update of the Capital Gains Tax rules according to the 2021 State Budget
- Section 18: Added link to the 2020 Ordinance (Portaria)

2020-03-10: Version 1.6

- Sections 15 & 17: Further clarification of information regarding the of the 2020 State Budget

2020-03-10: Version 1.5

- Sections 15 & 17: Confirmed information regarding the of the 2020 State Budget

2019-12-29: Version 1.4

- Sections 15 & 17: Added comments regarding the provisory version of the 2020 State Budget
- Section 18: Added link to Lisbon Area of Contention maps

2019-06-10: Version 1.3

- Section 10: Added new section with information about the Livro de Reclamações

2019-03-28: Version 1.2

- Section 2: Added brief info about inspections after registration
- Section 3: Added info about AL being permanent residence

- *Section 17: Added link to Ficha Técnica da ASAE and reorganized other links*

2019-03-28: Version 1.1

- *Section 2: Update on Chave Móvel Digital information*
- *Section 3: Example given of IRS tax paid*
- *Section 4: Information added about insurance from ALEP*
- *Section 10. Another IRS tax example*
- *Section 15: Rephrased social security info for clarity*
- *Section 17: Added Useful links*