

Death and Taxes

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30th August 2023

I believe it was Benjamin Franklin who said that “nothing can be said to be certain, except death and taxes” & he was right.

Death is something that inevitably comes to us all & (hopefully) this piece will inform members of what to expect when someone close to them dies at home or outside of a hospital.

1) On finding the person dead or in a state of distress, first call 112 & explain the situation, give your name, the address & if necessary directions and/or what3words location <https://what3words.com/else.outline.exists> and/or drop a pin location etc.

2) Administer first aid or CPR if you are able.

3) When the Bombeiros arrive try to answer their questions calmly & give them room to work.

4) In the event of death the Bombeiros will call the GNR to attend & they will probably want to see the identity documents of the deceased.

At this point, the situation changes dependent on whether the death was expected or not.

A) In the event of an unexpected death, the Bombeiros will remove the body & take it to the appropriate morgue & request that you follow with the paperwork of the deceased so you can give relevant information to the receiving officer.

As the death was unexpected there will probably be an autopsy carried out to ascertain the reason for death & assuming that there are no suspicious circumstances the body will be released to the Funeral Director in the fullness of time & from there you can make the relevant arrangements for funeral/cremation.

B) In the event of an expected death the body is usually left at the location & the Funeral Director called who will come & remove the body to the Funeral Home where you will need to attend & produce the relevant identity documents & make the relevant arrangements for funeral/cremation.

Portuguese law usually requires that the body be buried, cremated or exported out of Portugal within 3 days of the body being released. However, special dispensation can be granted for longer delays if reason such as relatives living overseas who want to attend the funeral or cremation.

BODY DONATION:

You can if you wish donate your body to medical research if you stipulate this in your last will & testament & also be aware that Portugal works on the principle of ‘Presumed Consent’ on organ donation which means that unless you have stipulated otherwise, your organs etc can be harvested for donation to others in need of them.

Also, that if a body is not claimed/collected the Government has the right to dispose of it as it wishes & this may include it's use for medical research.

However, there are a very few exceptions to this so do your own research carefully.

EUTHANASIA:

In May 2023 Portugal's Parliament passed legislation that says people aged over 18 will be allowed to request assistance in dying if they are terminally ill and in intolerable suffering & this will only cover those suffering "lasting" and "unbearable" pain, unless they are deemed not to be mentally fit to make such a decision.

The law will be applicable only to nationals and legal residents and will not extend to foreigners coming into the country to seek assisted dying & it is expected this legislation will be ratified in the autumn of 2023.

COSTS:

It's not uncommon to hear stories of high cremation/funeral costs in Portugal and of course, one can spend large amounts on anything, but the reality is that a fairly simple cremation (at the time of writing) can cost something in the region of +/- €2000.

INHERITANCE TAXES:

In terms of inheritance tax, when to direct family of spouse or children there are no inheritance taxes and the rest is taxed at 10%.

LAST WILL & TESTAMENT:

Inheritance laws in Portugal are extremely complicated & whilst I make no claim to be a lawyer, I'm fortunate enough to have several Portuguese friends who are & who have been kind enough to help me with the following information.

1) If someone dies without leaving a last will & testament then the inheritance laws of Portugal will be applied which means they will have to leave to the heirs (spouse & children) at least 33% of the estate must be divided equally to all of them if there is spouse and up to 3 children & if there's spouse and 4 or more children the 33% will be 25% to the spouse and the remaining 75% (of that 33%) divided in equally between the children.

The spouse cannot receive less than 25% & the rest of the inheritance one can give to whoever they wish.

2) In the case of having non Portuguese citizenship or dual/multi citizenship (when making a Will) it can (under the rules of Brussels IV) be according the law of the nationality (citizenships) or the Portuguese law, one can choose which inheritance laws they want to be applied & if you have multiple citizenships and living in Portugal you can choose which one you want to be applied. However, there are a very few

exceptions to this so be sure to do your own research carefully & you if you want to use the Brussels IV principle then you need to state that you wish to apply Article 22 of EU650/12 in the preamble to your last will & testament which will allow you to write your will in accordance to the inheritance laws of your country of citizenship.

If you do not want to make a Will (and if the same situation occurs) you can make a legal statement to choose which law you want to be applied in case of death & this can be done by a lawyer or notary. Always choosing between the law of citizenship or Portuguese (where they live) and other relevant countries. However, there are a very few exceptions to this so be sure to do your own research carefully.

LIVING WILLS:

Portugal does allow living wills to be made as per this link:

<https://www.sns24.gov.pt/servico/rentev-registo-nacional-de-testamento-vital/?fbclid=IwAR3Jye873lvhqFm0SRoQMF7ocGaCvHaI8rxzwo4MuqE4hJO5aNZQntuWOM4>

On the subject of taxes, it should be noted that the tax year runs by calendar year & every adult resident of Portugal whose worldwide income exceeds €8500 per year per person or €17000 per couple (if making a joint return) is legally required to make an annual tax return & declare their worldwide income which they must be between 1st April - 30th June of the year after the tax year & it can be argued that it's advisable to make one even if your worldwide income is less than €8500 per year as it might mean the tax authorities are far less likely to investigate you & **it's advisable to never underestimate the taxman in Portugal as he/she is either very good at what they do or utterly ruthless (depending on opinion) & they do have the right in some cases to simply take your home in lieu of taxes owed & they sometimes do precisely that so don't ever forget to make your tax return in a timely manner & also bear in mind that every accountant in Portugal is always mega busy between about March & May of every year trying to deal with late or soon to be late tax returns!**

If your tax return is relatively simple & if you have a password to the Financas website then you can do it yourself but if you prefer to use a professional then there are a number of Accountants listed in the Trade & Business Directory in the files section of this group & in my opinion any good accountant will always save you more than they will cost you.

It should be noted that changing tax residency to Portugal before you become a resident of Portugal is often to be avoided like the plague as by doing so, you may very easily lose eligibility for some or all of the new immigrant tax concessions such as non-habitual residency, free import of personal goods & Certificate of Baggage & tax free vehicle import & that last one can sometimes cost several tens of thousands of Euros if you declare the vehicle import to customs & are then unable to get the tax free import & you then cancel the process with IMT as Customs have every right to charge the matriculation fee (aka tax) of the problem vehicle.

In closing, I'd like to thank my legal eagle & funeral director friends who have assisted in this and preferred to remain nameless.

Nevertheless, they know who they are & I thank them for their help & support.

