

SALE OF INHERITED REAL STATE

The Supreme Administrative Court
excludes taxation on capital gains
from real state sold by heirs

INTERPRETATION OF THE SUPREME ADMINISTRATIVE COURT

A new judgment of the Supreme Administrative Court (SAC) concerning capital gains under Personal Income Tax (PIT), in the context of succession, was recently published.

In the context of an appeal lodged by the Portuguese Tax Authorities (TA) against an arbitral decision favorable to the taxpayer, which concluded that heirs who sell a property belonging to an undivided estate are not subject to PIT on the resulting capital gains, the SAC upheld that decision in favor of the taxpayer.

Accordingly, the SAC concluded that the interpretation set out in the Judgment for the Uniformization of Case Law published in April 2025, regarding the **exclusion from capital gains tax** where the sale of a hereditary share is at issue, is likewise applicable to the **sale of real estate assets sold by heirs** where the estate has not yet been partitioned.

PRACTICAL CONSEQUENCES FOR TAXPAYERS

This jurisprudential interpretation of the SAC is of practical relevance, as it opens the possibility for taxpayers to seek **reimbursement of the tax paid** for capital gains in situations involving the sale of real estate assets originating from inheritances.

This interpretation has significant practical effects, potentially allowing taxpayers to contest PIT assessments issued within the **last four (4) years** and to influence future decisions by the Tax and Customs Authority (TA).

The tax department of our firm is available to analyze each specific situation, assess the feasibility of reimbursement claims or challenges, and provide the necessary support at all stages of the procedure.

Should you have any questions or require further clarification on this matter, please do not hesitate to contact us.