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## REPORT

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From: General Secretariat of the Council  
To: Delegations  
Subject: Code of Conduct Group (Business Taxation)  
- Report to the Council

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### Portugal's Notional interest deduction regime (NID) (PT018)

#### I. Background

1. In 2018, the Group concluded that the Portugal's notional interest deduction regime (PT018) did not need to be assessed, given the average NID allowance of 2.283 EUR at the time per company and the maximum NID allowance of 140 000 EUR<sup>1</sup>, but that its economic effects should be monitored.

#### II. Preliminary assessment

2. Beginning October 2023, Portugal sent the relevant data concerning the effects of the measure for the tax year 2021 (annex below)<sup>2</sup>.
3. Based on the data received over the years, one can observe that the use of the NID regime is currently applied largely, having increased steadily every year, both in respect of the number of taxpayers benefitting from it and the amount of the NID granted (both generally and specifically for foreign owned companies). Yet, the average NID allowance per taxpayer in

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<sup>1</sup> This equals a **maximum tax benefit of EUR 29.400** (140.000 allowance deduction x 21% CIT); the standard CIT rate is of 21% (without surcharges); and for SME a rate of 17% applies to the first EUR 25 000, and the standard rate to the remainder.

<sup>2</sup> 2013-2016 data was available in the draft assessment paper (WK 13136/18).

the last three years (2018-2021) stabilized between 13.000 EUR and 14.000 EUR, with a slight decrease in the last two reported years.

4. Regarding the actual use of the measure by category of taxpayer in the last three years, the ratios are comparable, both in respect of the general average of the tax benefit and of the foreign owned taxpayers using the measure.
5. Regarding the use of the measure by foreign owned taxpayers, in 2021, the number of foreign owned taxpayers dropped again to 3.6% (from 4% in 2020) of the total taxpayers benefitting from the NID regime, while the total tax expenditure attributable to them represented 9.3 % (10.5% in 2020) of the total tax expenditure (5.5 million EUR out of 59 million EUR). In 2019-2020, the ratios were comparable, foreign owned taxpayers represented around 3.6% - 4% of the total taxpayers benefitting from the NID regime, while the total tax expenditure attributable represented 10% -10.5% <sup>3</sup> of the total tax expenditure.
6. Furthermore, per company, the general average NID tax benefit amounted to 2.765 EUR, (decreasing since 2019 from 2.974 to 2.824 EUR in 2020, (21% CIT x 13.167 EUR average NID allowance); whereas the average NID tax benefit attributable to foreign owned taxpayers was 7.0 EUR, decreasing for the 4<sup>th</sup> year in a row (last line in the table). Despite this constant decrease, the NID benefits are higher for taxpayers with foreign links, which Portugal explained previously with the fact that taxpayers with foreign links on average have a larger business dimension than the domestic ones.<sup>4</sup> For 2018, Portugal had communicated data showing indeed that although the taxpayers with foreign links represented in 2018 only 2.9% of the total number of taxpayers benefitting from the regime, they counted for around 11.5% of the total assets, 13.5% of the total sales and 13% of the employees.
7. To conclude, the average NID tax benefit attributable to foreign owned taxpayers is 2.5 times higher than the **general average of NID tax benefit (7.073 EUR** compared to 2.765 EUR). Nonetheless, it remains low and significantly below the **maximum tax benefit of 29.400 EUR allowed under the PT NID** (CIT rate of 21% x 140.000 EUR maximum NID allowance). An average NID tax benefit of 7.035 EUR stands for an average increase of capital (new share capital contributions) of around 500.000 EUR (480.000 EUR x 7%<sup>5</sup> x 21% CIT rate).
8. Based on the data made available by Portugal for the nine years of the use of the NID regime (2013-2021), and in light of the arguments above, it is our preliminary assessment that the

<sup>3</sup> Compared to 9.2% in 2018

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2018	Number	Sales (euros)	Total Assets (euros)	Employees
Taxpayers benefitting from the measure	8.922	32.839.188.354,34	51.828.634.916,19	190.400
Out of which directly or indirectly foreign owned companies:	261	4.448.667.900,86	5.980.875.062,22	25.247

<sup>5</sup> Rate of interest deduction

regime does not seem to have affected in a significant way the business location among the Member States.

9. Moreover, as the use of the foreign owned companies remained stable as a ratio in comparison to the overall number of beneficiaries, the tax benefit remained stable and at low level in comparison to the allowed tax benefit under the NID, the Commission services are of the view that the monitoring can be terminated.

### **III. Follow-up:**

- i. The Group agreed with the preliminary conclusion that the PT018 NID regime does not seem to have affected in a significant way the business location among the Member States in 2021.
- ii. The Group agreed that, in light of the data provided over the years by Portugal on the use of the NID regime, the monitoring should be terminated.

**Annex: Portugal – PT018 - Notional interest deduction regime (NID) [2018 CoCG decision]**

<b>Portugal PT018</b>	2013	2014	2015	2016	2017	2018	2019	2020	<b>2021</b>
Total number of taxpayers benefitting from the measure	631	1440	2044	3299	5915	8922	13 162	16 369	<b>21 450</b>
Out of which directly or indirectly foreign owned companies:	0	7	13	32	144	261	475 <sup>6</sup>	660 <sup>7</sup>	<b>781 <sup>8</sup></b>
Global amount of NID granted	1300948	3503749	4903392	7 530 000	63 447 187	120 239 239	184 727 819	220 122 655	<b>282 440 679</b>
Total tax expenditure (at 21% CIT rate)	325 237	654 053	917.581	1 407 269	13 323 909	25 250 240	38 792 842	46 225 757	<b>59 312 543</b>
<i>Average amount of NID allowance</i> <i>[ (3) : (1) ]</i>				2283	10 726	13 477	14 035	13 448	<b>13 167</b>

<sup>6</sup> 3.6% of the total number of taxpayers benefitting from the measure.

<sup>7</sup> 4% of the total number of taxpayers benefitting from the measure.

<sup>8</sup> 3.6% of the total number of taxpayers benefitting from the measure.

Total tax expenditure attributable to directly or indirectly foreign owned	0	10743	33102	64 107	1 203 084	2 301 980	3 942 250	4 887 328	<b>5 524 059</b>
<i>Average NID tax expenditure attributable to directly or indirectly foreign owned</i>				<i>2 003</i>	8 354	8 819	8 299	7 405	<b>7 073</b>