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portugués

Interest rates

Portugal

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-----inglés

1 Is "statutory interest" provided for in the Member State? If so, how is "statutory interest" defined in this Member State?

Statutory interest

Yes, Portuguese legislation provides for statutory interest rates.

Interest may be stipulated by the parties or laid down by law. When it is stipulated by the parties, it is called contractual interest. **When it is laid down by the law, it is called statutory interest.**

Contractual and statutory interest can be **civil or commercial**.

Purpose of the interest

In general terms, there are two types of interest: remuneratory interest (e.g. interest payable on a loan) and penalty interest (e.g. interest for default in fulfilling an obligation).

Statutory interest due for default

When a debtor **defaults on a financial obligation**, the general rule is that **the compensation due for the default corresponds to the statutory interest** calculated as from the date the debtor defaulted. A financial obligation is an obligation to pay money to another party.

Time of default

The debtor is considered to be in default once he has been notified through judicial or extrajudicial channels to fulfil the obligation.

However, there are three cases in which the debtor is considered to be in default without necessarily having been notified:

If the obligation had a fixed period;

If the obligation arose from an unlawful act;

If the debtor avoids the notification; in this case, the debtor is deemed to have been notified on the date the notification would normally have been served on him.

If the credit is illiquid, there is no default until it becomes liquid unless the illiquidity is the fault of the debtor. If the debtor is responsible for an unlawful act or a risk, he is considered to have defaulted from the date on which he is served formal notice, unless he had already defaulted under the terms of the first part of this paragraph.

Extinguishment or cessation of interest credit

From the time it arises, interest credit is not necessarily dependent on the principal credit. One can be transferred or cancelled without the other.

Allocation of partial payments

National legislation establishes the following rules in relation to payment allocation:

(i) When, in addition to capital, the debtor has to pay costs or interest or has to compensate the creditor as a result of default, a payment that is not sufficient to cover the full amount will be applied to costs, compensation, interest and capital, in that order;

(ii) Allocation to the capital can only be made last, unless the creditor agrees otherwise.

Interest on interest

Penalty interest can accrue on ordinary interest (compound interest) in certain cases.

For interest to accrue further interest, one of the following situations has to occur:

Either the debtor must be notified judicially to capitalise the accrued interest, or the debtor must pay the interest under penalty of capitalisation.

Only interest corresponding to a minimum period of one year can be capitalised. These restrictions on compound interest are not applicable if they breach the specific regulations or practices of the sector (e.g. as in the case of loans granted by financial institutions subject to special regulations).

National case law has determined that penalty interest cannot accrue on penalty interest. Accordingly, statutory interest owed as a result of default in the fulfilment of a financial obligation cannot in principle accrue interest. This is without prejudice to any variation of this interpretation in case law and the possibility provided for by the law of application of a compulsory financial penalty when the payment of a monetary amount is ordered via a court judgment.

2 If yes, what is the amount/rate and legal basis for it? If different rates of statutory interest are provided for, what circumstances and conditions apply?

Statutory interest rates vary according to whether they relate to **civil** or **commercial** interest.

Civil statutory interest

Civil statutory interest is set by a joint ministerial implementing order (*Portaria*) of the Ministers of Justice and Finance, in accordance with Article 559(1) of the Portuguese Civil Code (*Código Civil*). At the time of writing, civil interest rates were set by Ministerial Implementing Order No 291/03 of 8 April 2003, which is still in force.

Commercial statutory interest

Commercial statutory interest is normally due for credit owed by commercial companies, single undertakings or legal persons and, in particular, for the types of credit referred to in Decree-Law No 62/2013 of 10 May 2013, referred to below.

Commercial statutory interest is set by a joint ministerial implementing order of the Ministers of Justice and Finance in accordance with Article 102(3) to (5) of the Portuguese Commercial Code (*Código Comercial*) as amended by Decree-Law No 62/2013 of 10 May 2013. At the time of writing, the setting of

commercial interest was regulated by Ministerial Implementing Order No 277/13 of 26 August 2013, under which commercial interest rates are set on a biannual basis.

The amount of each of the commercial interest rates referred to in Ministerial Implementing Order No 277/2013 of 26 August 2013 is set by means of a notice issued by the Directorate-General of the Treasury and Finance (*Direção Geral do Tesouro e Finanças*), published in the Portuguese Official Gazette (*Diário da República*), 2nd series, by 15 January and 15 July each year.

Ministerial Implementing Order No 277/2013 of 26 August 2013 provides for two commercial interest penalty rates, which vary according to the transactions concerned:

The first is the interest rate applicable to delays in payment relating to commercial transactions between companies or between companies and public entities, provided for by Decree-Law No 62/2013 of 10 May 2013;

the second is the supplementary rate of penalty interest applicable to other operations and relating to credit owed by commercial companies, single undertakings or legal persons, provided for by Article 102(3) of the Portuguese Commercial Code.

Statutory interest rates, whether civil or commercial, vary with time. For that reason, the calculation of interest should take into account the different rates applicable for each part of the default period.

For practical reasons, we have only mentioned here the statutory interest rates for recent years. The content of this factsheet is for information purposes only and is not intended to replace consultation of the applicable national legislation for each specific case.

A compulsory interest surcharge of 5% is added to the statutory interest owed if payment of a monetary amount is ordered by means of a court judgment. In this case, interest at the rate of 5% per annum will automatically be owed - without the need for any other judicial decision to that effect - counting from the effective date of the judgment. This compulsory financial penalty is added to the penalty interest, where applicable, or to the compensation owed, in accordance with Article 829-A(4) of the Portuguese Civil Code.

Statutory interest from 5 August 1980 to date is as follows:

From 5.8.1980 to 22.5.1983 [(1 021 days) - Decree-Law No 200-C/80 of 24.6.1980 and Ministerial Implementing Order No 447/80 of 31.7.1980]	**15%**
From 23.5.1983 to 28.4.1987 [(1 437 days) - Ministerial Implementing Order No 581/83 of 18.5.1983]	**23%**
From 29.4.1987 to 29.9.1995 [(3 076 days) - Ministerial Implementing Order No 339/87 of 24.4.1987]	**15%**
From 30.9.1995 to 16.4.1999 [(1 295 days) - Ministerial Implementing Order No 1171/95 of 25.9.1995]	**10%**
From 17.4.1999 to 30.4.2003 [(1 475 days) - Ministerial Implementing Order No 263/99 of 12.4.1999]	**7%**
From 1.5.2003 [Ministerial Implementing Order No 291/03 of 8.4.2003]	**4%**

Commercial statutory interest rates from 28 September 1995 to date are as follows:

From 28.9.1995 to 16.4.1999 [Ministerial Implementing Order No 1167/95 of 23.9.1995]	**15%**
From 17.4.1999 to 30.9.2004 [Ministerial Implementing Order No 262/99 of 12.4.1999]	**12%**
From 1.10.2004 to 31.12.2004 [Directorate-General of the Treasury (*Direcção-Geral do Tesouro* or 'DGT') Notice No 10097/04 of 30.10.2004]	**9.01%**
First half of 2005 [Ministerial Implementing Order No 597/2005 of 19.7 and DGT Notice 310/2005 of 14.1.2005]	**9.09%**
Second half of 2005 [DGT Notice No 6923/2005 of 25.7.2005]	**9.05%**
First half of 2006 [DGT Notice No 240/2006 of 11.1.2006]	**9.25%**
Second half of 2006 [DGT Notice No 7706/2006 of 10.7.2006]	**9.83%**
First half of 2007 [DGT Notice No 191/2007 of 5.1.2007]	**10.58%**
Second half of 2007 [Directorate-General of the Treasury and Finance (*Direcção-Geral do Tesouro e Finanças* or 'DGTF') Notice No 13665/2007 of 30.7.2007]	**11.07%**
First half of 2008 [DGTF Notice No 2152/2008 of 29.1.2008]	**11.20%**
Second half of 2008 [DGTF Notice No 19995/2008 of 14.7.2008]	**11.07%**
First half of 2009 [DGTF Notice No 1261/2009 of 14.1.2009]	**9.50%**
Second half of 2009 [DGTF Notice No 12184/2009 of 10.7.2009]	**8%**
First half of 2010 [DGTF Notice No 597/2010 of 4.1.2010]	**8%**
Second half of 2010 [DGTF Notice No 13746/2010 of 12.7.2010]	**8%**
First half of 2011 [DGTF Notice No 2284/2011 of 21.1.2011]	**8%**
Second half of 2011 [DGTF Notice No 14190/2011 of 14.7.2011]	**8.25%**

First half of 2012 [DGTF Notice No 692/2012 of 17.1.2012]	8%
Second half of 2012 [DGTF Notice No 9944/2012 of 24.7.2012]	8%
First half of 2013 [DGTF Notice No 584/2013 of 11.7.2013]	7.75%
Second half of 2013 Operations subject to Decree-Law No 62/2013 [DGTF Notice No 11617/2013 of 17.9.2013]	8.50%
Other operations [DGTF Notice No 10478/2013 of 23.8.2013]	7.50%
First half of 2014 Operations subject to Decree-Law No 62/2013	8.25%
Other operations [DGTF Notice No 1019/2014 of 24.1.2014]	7.25%
Second half of 2014 Operations subject to Decree-Law No 62/2013	8.15%
Other operations [DGTF Notice No 8266/2014 of 16.7.2014]	7.15%
First half of 2015 Operations subject to Decree-Law No 62/2013	8.05%
Other operations [DGTF Notice No 563/2015 of 19.1.2015]	7.05%
Second half of 2015 Operations subject to Decree-Law No 62/2013	8.05%
Other operations [DGTF Notice No 7758/2015 of 14.7.2015]	7.05%
First half of 2016 Operations subject to Decree-Law No 62/2013	8.05%
Other operations [DGTF Notice No 890/2016 of 6.1.2016]	7.05%
Second half of 2016 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No 86741/2016 of 30.6.2016]	7.00%
First half of 2017 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No 2583/2017 of 3.1.2017]	7.00%
Second half of 2017 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No 8544/2017 of 29.6.2017]	7.00%
First half of 2018 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No 1989/2018 of 3.1.2018]	7.00%
Second half of 2018 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No 9939/2018 of 28.6.2018]	7.00%
First half of 2019 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No /2019 of 2.1.2019]	7.00%
Second half of 2019 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No 11571/2019]	7.00%
First half of 2020 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No 1568/2020]	7.00%
Second half of 2020	8.00%

Operations subject to Decree-Law No 62/2013	
Other operations [DGTF Notice No 10974/2020]	7.00%
First half of 2021 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No 2239/2021]	7.00%
Second half of 2021 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No 13486/2021]	7.00%
First half of 2022 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No 1535/2022]	7.00%
Second half of 2022 Operations subject to Decree-Law No 62/2013	8.00%
Other operations [DGTF Notice No 13997/2022]	7.00%
First half of 2023 Operations subject to Decree-Law No 62/2013	10.5%
Other operations [DGTF Notice No 1672/2023]	9.5%

3 If necessary, is there further information available on how to calculate statutory interest?

Additional information on how to calculate the statutory interest rate can be found on the website of the Directorate-General of the Treasury and Finance of the Ministry of Finance.

4 Is there free online access available to the legal basis mentioned above?

Online access to the website referred to in the answer to question 3 is free.

Relevant legislation

Civil Code

Commercial Code

Decree-Law No 62/2013 of 10 May 2013

Ministerial Implementing Order No 291/2003 of 8 April 2003

Warning

The information contained in this factsheet is of a general nature and is not exhaustive. It is not binding on the contact point, the European Judicial Network in civil and commercial matters, the courts or any other persons. It is not intended to replace consultation of the applicable legislation in force.

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