

Buying property in Portugal

Buying a property in Portugal is a straightforward process as long as you stick to the letter of law and are advised and/or represented by professional companies & competent people who are fluent in a language that the buyer can understand.

Government licensed Real estate agents

Only Portuguese Government licensed real estate agents can work in Portugal. However we always recommend that the purchaser appoints a local lawyer to represent him. **The real estate agent's** commission is paid by the vendor unless agreed otherwise.

Lawyer

It cannot be stressed enough how important it is to have your local lawyer represent you during the purchase of a property in Portugal. Only after making these enquiries you will fully understand the obligations you are taking on making the investment. This is not your home country and things must be checked very carefully to avoid unnecessary problems in the future.

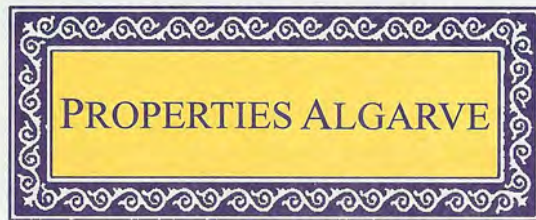
The costs of a lawyer is about 1-1.5% of the purchase price.

After finding the right property and agreeing on the price a promissory contract (Contrato Promessa Compra e Venda c.p.c.v) has to be drawn up. Usually the purchaser's lawyer draws this up. It should include:

- The identification of the parties
- Identification of the property
- Confirmation of the clear title of ownership
- Agreed terms & conditions of the contract.
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Normally the down payment is 10% and is usually after signing paid to the vendor lawyer. ***The deposit should not be paid directly to the vendor!*** This is a non-refundable deposit unless specifically stated to the contrary in the contract. If the purchaser breaks the contract he loses the deposit. Likewise if the seller defaults he has to pay the buyer double the deposit. It is perfectly acceptable for the buyer or seller to request copies of the promissory contract translated into their mother tongue.





Property Tax: IMT

This tax is payable by the buyer and will have to be paid prior to completion (escritura) The amount varies with the value of the property and will have to be paid over values of more than € 92,407. As a general guide this tax is between 5-6% of the rateable value.

Permanent habitation (residents)

Property value	rate	deduct
€ 92.407	0	0
€ 92.407 - € 126.403	2%	€ 1.848,14
€ 126.403 - € 172.348	5%	€ 5.840,23
€ 172.348 - € 287.213	7%	€ 9.087,22
€ 287.213 - € 574.323	8%	€ 11.959,26
€ 574.323	6%	-

Example

A property has a value of € 400.000 would be liable to € 20.040,74 IMT (400,000 x 8% which is the equivalent of 5.228% (20.040,74/400.000)

Second habitation (non residents)

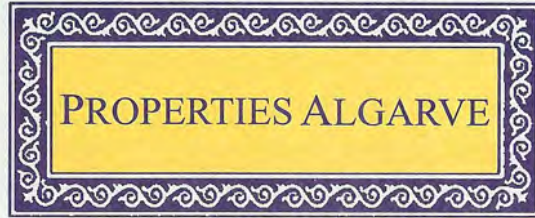
Property value	rate	deduct
€ 92.407	1%	0
€ 92.407 - € 126.403	2%	€ 924,07
€ 126.403 - € 172.348	5%	€ 4.719,22
€ 172.348 - € 287.213	7%	€ 8.163,09
€ 287.213 - € 550.836	8%	€ 11.035,30
€ 550.836	6%	-

For agricultural land the IMT is 5% and building plots without a ruin 6.5%.

Escritura / Deed

The final deed will be signed at a public Notary. All the necessary documents will have to be checked before the final deed is read aloud. Your lawyer can sign both the promissory contract and





the Deed on your behalf with a Power of Attorney. The real estate agency has to identify herself at the Notary office and will be registered in the deed. Only after signing the final deed can the buyer official take possession of the property.

Conservatória do Registo Predial- (Land registry)

This defines the property by location, size and description and contains the properties legal history. Also check what has been registered conforms to what is actually built as well as the area of the land.

Caderneta Predial / Official tax document

This is an official document relating to the property and check if the description is the same as in the Land registry. This gives the property its fiscal identification number.

Registration & Notary

Finally (after the deed) your lawyer should register the property in the name of the new owner at the local Land registry. Registration can take several months but is effective the day it was applied for. The purchaser should ask for a copy once it's registered.

IMI – Local rates

In addition to the official registration (registo predial) properties are also registered at the finance department at a certain fiscal rateable value. Your lawyer should also check that all local rates of the last 5 years have been paid

Fiscal Number / número do contribuinte

If you are buying a property you will need a fiscal number at the Tax Department (Finanças). This will come in the form of a card which you will need for payment of annual property tax and to open a Portuguese bank account. Your lawyer will apply for one.

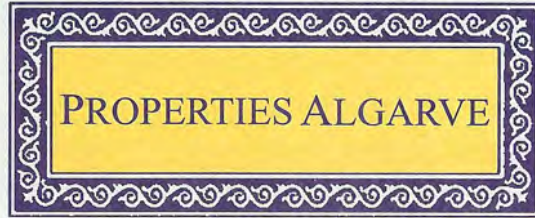
Buying Off Shore - Corporate Ownership

This is a legitimate and a convenient way of buying a property in Portugal without having to pay the high rate of IMT – property transfer tax.

When a property owned by an Off Shore Company is bought, its shares rather than the property itself change hands.

The property itself is an asset of the company and buyers purchase shares in the company. This





transaction takes place under the jurisdiction of the area in which the company is based. Today these corporate structures are usually situated in Malta or Delaware (USA) as these are not considered black listed countries.

A share Purchase Agreement is drawn up, the usual deposit paid and a completion date set in the usual manner. The immediate benefits of such a transaction are its simplicity and the fact that all documentation proceeds in the English language. And there are no local stamp duty taxes to be paid.

Buying off shore avoids property tax (IMT) and notary and registration costs. These costs are generally around 7%.

Anonymity of the owners of the company, the avoidance of capital gains are advantages. Furthermore dealing with inheritance laws is made simpler as on death, there is no chargeable event in Portugal and the property remains unchanged.

A disadvantage of owning a property in an off shore company can be if it ever became necessary to sell the house out of the company it would involve a capital gains tax (Mais Valias) of 25% in Portugal on the profit made by the company.

You should also consider if the value of your property justifies the long term running costs of the company which is generally around Euro 1500-2500 a year.

The advantages / disadvantages of the use of an offshore company should, in our opinion, be discussed with your lawyer and/or accountant.

