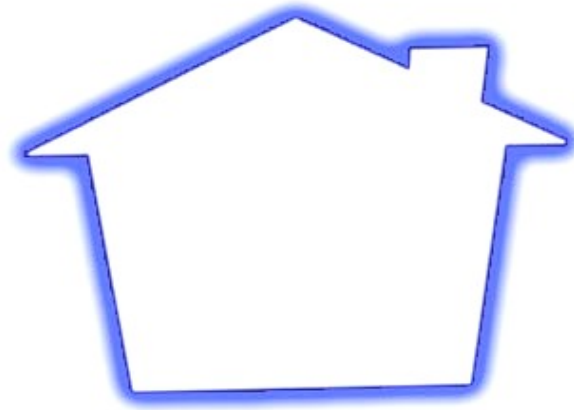


# **Buying Property in Portugal**



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## **Introduction**

So you've fallen for Portugal's charm and potential and are looking to invest in its property market. The good news is that buying property in Portugal is a relatively simple and straightforward procedure.

We always recommend you buy through an AMI Licensed Agent and that the agent has a valid license. This license is granted by the governing body IMOPPI and serves as a guarantee that the individual estate agent has complied with numerous regulations to exercise the profession of estate agent in Portugal. Licensed estate agents also have insurance cover that may be claimed against if they don't conform to the highest standards. Make sure that your agent not only has a license but that it's actually valid. If in doubt ask to see it and check the expiry date.

This booklet is intended to guide you through the process of buying property in Portugal but we recommend that you also seek expert legal advice and use an English speaking local lawyer. Your estate agent can usually recommend several good ones.

## **The Buying Process and Taxes**

Once you've found the property of your dreams the procedure is usually as follows:

A **Contrato de Promessa de Compra e Venda** (Promissory Contract similar to Exchange), will be drafted up by your lawyer whereby you promise to buy the property for a given sum and the vendor agrees to sell it. Your lawyer should at this stage ask the vendor to supply the following documentation:

1. **Caderneta Predial** (Tax Registration Document) from the Finanças (Tax Office) which shows the tax situation of the property including the property's inscription for fiscal purposes, the current owner, the property's fiscal number etc..
2. **Certidão de Teor** (Land Registry Document)- This document shows who owns of the property, who has rights to the property and if there are any charges, mortgages or incumbrances registered against the property. It basically provides you with the history and the general standing of the property.
3. **Licença de Habitabilidade** (Habitation License) for properties built after 1951 a habitation license is required. This document shows that the property has, at some time in the past, obtained a certificate deeming it fit for human habitation. The licence is obtained at the Council.
4. **The Property's Plans** - these should also be supplied and ask your lawyer to look and see that everything is as it should be and no significant modifications which may affect your enjoyment of the property have been made.
5. **Identificação Fiscal** (Fiscal Number) As a future home owner you will also be required to get one of these from the Local Tax Office. Usually your lawyer will take care of this for you.
6. **Survey-** A structural survey is not a legal requirement under Portuguese law and banks don't usually ask for it either on most properties, but you know the saying "If in doubt, check it out" particularly if you're looking at older properties

Amongst other things your lawyer should also look into whether the property you're buying is currently rented to a third party. If it is, the tenant can in certain circumstances exercise the right to purchase.

If you're buying an agricultural plot (rústico), the neighbours can have the right to purchase. So check these little details out and avoid unnecessary headaches.

Once you and your lawyer are satisfied that everything is order, you can then proceed to the signing of the Promissory Contract.

A 10% per cent deposit is usually required at this stage, although this can vary.

The contract is legally binding and the law states that should you change your mind and decide not to proceed with the purchase, you forfeit your deposit. On the other hand should the vendor withdraw from the sale s/he has to repay double the original deposit handed by the buyer.

### **Escritura** (Deed of Completion)

After the Promissory Contract and if everything is in order you can in the following weeks proceed to the Escritura (Completion). This is done in a Notary's Office. The Escritura is the legal document which shows ownership of the property and you get a copy a few days after the Escritura.

### **Notary**

The Notary is a neutral government legal representative who is there to ensure that all the documentation is in order, all taxes have been paid and serve as a witness to the property during Escritura. and ensures that every legal aspect is adhered to . Once the Notary is satisfied that every legal aspect of the transaction has been adhered to s/he will reads out the clauses in the Escritura; if a translator is needed your lawyer should be able to help with this. The buyer, seller and the Notary will then sign the Escritura (Deed of Completion). A few days later your title to the property should be entered at the Land Registry.

You're also required to register the purchase at the Finanças (Tax Office) within 60 days. If you're a tax resident in Portugal you can apply for IMI (Council Tax) exemption; properties of up to €157.500 are eligible to 6 years Council Tax exemption; properties between the values of €157.500 – 236.250 are eligible for a 3 year Council Tax exemption.

Prior to Escritura de Compra e Venda (Completion) you are required to pay **IMT** (a type of Stamp Duty for the local authority). This Stamp Duty goes up in platforms in accordance with the value of the property and also if it's a main or second residence. To illustrate please see the two Tax Office percentage scales below:

## IMT SCALES

### Main Residence

Value of The Property Transaction	% of Tax Payable	Amount to Deduct
Up to € 85.500	0%	€ 0,00
Over € 85.500 to € 117.200	2%	€ 1.710
Over € 117.200 to € 159.800	5%	€ 5.226
Over € 159.800 to € 266.400	7%	€ 8.422
Over € 266.400 to € 532.700	8%	€ 11.086
Over € 532.700	6% Flat Rate	

### Second Residence

Value of The Property Transaction	% of Tax Payable	Amount to Deduct
Up to € 85.500	1%	€ 0
Over € 85.500 to € 117.200	2%	€ 855
Over € 117.200 to € 159.800	5%	€ 4371
Over € 159.800 to € 266.400	7%	€ 7,567
Over € 266.400 to € 511.000	8%	€ 10,231
Over € 511.000	6% Flat Rate	

Rustic Property/Buildings	5%
Other property & Land	6.5%

### EXAMPLE:

You're purchasing a three bedroom Villa for €450.000, your IMT calculation would be as follows:

€450.000 x 8% = €36.000 - €10,231= **€25,769 ACTUAL amount of IMT payable because the Tax Office gives a deductible allowance on most of the platforms.**

The IMT payment must be made **PRIOR** to the Escritura de Compra e Venda (Completion) which can take place at any Notary Office in the country. If you do not make this payment, the Notary will not allow Completion to take place.

There is also a 0.8% **Imposto de Selo** ( Stamp Duty) cost of the value of the property at the Notary's Office on Completion. So for your villa you would pay **€3.600** to the Notary on Completion.

If you're borrowing from a Portuguese bank there is a further 0.6% Stamp Duty on the amount borrowed. So for instance if you borrowed €350.000 from PPP Bank there is a further **€2.100** to pay.

Where borrowing is involved the procedure is slightly different in the sense that the bank does a provisional registration of their and your interest in the Land Registry prior to Completion to protect both your and its interest in the property. This shouldn't cost more than €500 to €800. After completion the provisional registrations are converted at the Land Registry by the bank or your lawyer.

Purchasing costs vary depending on the value of the property you buy but also of course which lawyer you use. Lawyers' fees vary dramatically but be prepared to pay between 1%-1,5% of the purchase price although there have been lawyers know to charge as much as 3% of the sale price, which is bordering on the extortionate.

Allow 6 -10% for all your purchasing costs (this varies because of the deductible allowances of the IMT platforms).

So for your dream three bedroom villa in sunny Algarve worth €450.000 add another 8% to the purchase price to cover all costs including taxes, stamp duties, conveyancing, registrations etc for around; whereas a luxury villa worth €1.000.000 would probably cost you nearer the 10% mark.

## **Financial and Legal Matters**

It is also important to mention at this stage that although not compulsory, it is recommended that you open a Portuguese bank account to pay bills, taxes etc. Again your estate agent or lawyer should be able to help you with this.

If you're borrowing money to finance your home in the sun it's a good idea to check out the local banks. Banks in Portugal tend to give better interest rates than back in the UK and on average it takes 4-6 weeks for a mortgage to come through. We recommend you get several quotes as the market is very competitive.

In general banks tend to loan up to 80% of the property's valuation price. So in cases of a generous valuation you could borrow close to if not all the asking price of the property.

**Procuração** (Power of Attorney)- Many buyers tend to leave their lawyer a signed Power of Attorney with specific powers to sign the Promissory Contract, utility contracts and Complete on their behalf. This is easily done again in a Notary's office and takes on average half an hour and shouldn't cost more than €50. This is recommended if you don't have the time to come over regularly to sign and deal with the bureaucratic part of the process.

**Currency Exchange** - There are now numerous companies that do free foreign exchange and who can probably save you thousands on your home in the sun. This is usually quite a straightforward operation and shouldn't take more than 3 working days to transfer your money from your local bank account to your Portuguese account

**Capital Gains** - Portuguese tax residents receive a 50% exemption before the capital gain is added to the normal income tax scales. You can deduct all buying and selling costs, capital improvements on the property in the last five years prior to selling. As a tax resident, if the property you sell is your main residence, then you can roll your profit over into your new home; you have up to two years from the sale date to do so. Non tax residents currently get charged 25% of the full capital gain.

## **Annual Costs**

### **IMI**

This is similar to Council Tax and is based on the rateable value of your property not the real value. The rateable value for urban property is usually lower than the real market value and is based on a percentage scale ranging from 0.4%- 0.8% depending on the municipal Council Area your property's in. The Tax office also takes into consideration the size of the property and its level of luxury.

So for instance for your two bedroom apartment in Vilamoura with a market value of €250.000 a quick way to give you an estimate of your yearly IMI costs would be as follows:

Vilamoura is in the 0.45% bracket and having worked out that your property's rateable value is approximately €210.000  $\times 0.45\% = €945$  per year

IMI is paid in two instalments in April (€472.50) and September (€472.50).

### **Condominium Charge**

If your property is in a gated complex you will also have to pay a yearly condominium charge. Basically a management company will look after the green areas, pool etc for a yearly fee; these vary from complex to complex as the managing companies looking after them are privately run enterprises but as a guide your two bedroom apartment in Vilamoura in a private complex with 20 apartments would probably cost in the region of €600 - €800 per year.

### **Fiscal Representation**

Non-Resident homeowners are required to appoint a Fiscal Representative to ensure that your tax affairs are kept in order. Usually your lawyer will appoint one on your behalf as you need to pay your IMI charge and submit your tax return at the end of the year (which is compulsory under Portuguese law). As a guide for this service you shouldn't be charged more than €500 to 800 per year.

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