

Member States capabilities in fighting tax crimes

Relevant legal definition(s) of tax-related offences

	Tax avoidance	Tax evasion	Money laundering
Portugal	is understood as a legal act - unless deemed illegal by the tax authorities or, ultimately, by the courts - of using tax regimes to one's own advantage to reduce one's tax burden.	is defined as an illegal act of evading taxes by concealing income, earned either legally or illegally, from detection and collection by the tax authorities.	refers to acts involving the processing of proceeds of crime to conceal their illegal origin and bring them back into the legal economy.
Legal text	Article 38 of Decree-Law 398/98, of 17 December, which enacted the General Tax Law [http://info.portaldasfinancas.gov.pt/pt/informacao_fiscal/codigos_tributarios/1gt/1gt38.htm]	Articles 87 to 105 of Law 15/2001, of 5 June, which enacted the Tax Infraction Legal Framework [http://info.portaldasfinancas.gov.pt/pt/informacao_fiscal/codigos_tributarios/rgit/index_rgit.htm]	Law No 25/2008, of 5 June, transposes Directives 2005/60 and 2006/70 [http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=991&tabela=leis&ficha=1&pagina=1&so_miolo=&] Criminal Code, Article 368-A [http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=109&tabela=leis&so_miolo=&]
Nature of the offence	Administrative	<ul style="list-style-type: none"> • Administrative • Criminal 	<ul style="list-style-type: none"> • Administrative (preventive duties) • Criminal
Objective element	Actions engaged by taxpayers which, exclusively or predominantly, determine the reduction, elimination or deferment of taxes or obtaining a tax advantages that would otherwise fail to be obtained if it was not for the use of an artificial or abusive scheme or action.	The concealing or change of facts or values that should be stated in financial statements and the concealing of facts and values subject to tax aiming at obtaining a tax advantage.	<ul style="list-style-type: none"> • Any person who converts, transfers, assists or facilitate, on behalf of himself or a third person, whether directly or indirectly, any operation of conversion or transfer of proceeds, for the purpose of disguising the illicit origin of the property • The same applies when the person conceals or disguises the true nature, source, location, disposition, movement, rights with respect to, or ownership of proceeds. • A positive list describes the unlawful origin of the property
Mental element		<ul style="list-style-type: none"> • Intent • Negligence (restricted to penalties) 	No
Sanction	Additional tax assessment	<ul style="list-style-type: none"> • Administrative sanction: up to 165 000 € • Criminal sanctions: Imprisonment up to 8 years OR Fine between 10 and 600 days 	<ul style="list-style-type: none"> • Administrative sanction: up to 2 500 000 € • Criminal sanctions: Imprisonment up to 12 years
Other tax-related crimes		Tax swindling: Who, by making false statements, falsification or adulteration of tax relevant document, or by any other fraudulent means, lead the tax administration or the social security administration to make capital allocations for their own enrichment or for others. Credit frustration: Who, knowing that he must deliver the tax that is already assessed or that is in the assessment process or that is indebted to the social security, shall dispose, damage or conceal, make disappear or encumber his assets with the intention of frustrate the tax credit.	
Aggravating / mitigating circumstances		<ul style="list-style-type: none"> • Committed by organised criminal group • The offender is a public official 	Committed by organised criminal group

Legal persons/natural persons	Both	Both	Both (penalties are higher for legal persons)
Other information			A draft law that transposes Directive (EU) 2015/849 is currently under consideration in the Portuguese Parliament, having been approved on first reading.

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Statistical data on tax avoidance, tax evasion and money laundering

Portugal	2012	2013	2014	2015	2016	Comments
MONEY LAUNDERING						
FIU: UIF - Unidade de Informação Financeira Financial Information Unit						Subject entities (financial and non-financial) are required, amongst other duties, to report STR, simultaneously to the FIU and the Prosecutor-General's Office (through the Central Department for Criminal Investigation and Prosecution - DCIAP).
Human Resources						The UIF hosts the Liaison Standing Group (GPL) which comprises officials of Tax and Customs Authority (AT).
Budget (€)						
Type of FIU						Police
Total number of reports disclosed						
Including Suspicious Activity Reports (SARs)						
Including Suspicious Transaction Reports (STRs)						
Including Unusual Transaction Reports						
Including Cash Transaction Reports						
Including Currency Transaction Reports						
Including External Transaction Reports						
Audits conducted						
Court Cases						
Total number of proceedings started						
Number of pending/unresolved court cases						
Total number of convictions						
Including of natural persons convicted						
Including of legal persons						
Number of court cases resolved with an acquittal						
Number of court cases resolved in another way						
Number of court cases resolved in sentences						
Amount of seized financial means						
Including natural persons						
Including corporate bodies						
Including fines						
Amount of fines						
Including imprisonment						
of which, conditional sentence						

of which, unconditional imprisonment						
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OTHER TAX-RELATED OFFENCES						
Tax Evasion Unit - Law enforcement authorities						
Human Resources						
Budget (€)						
Number of cases investigated						
Number of Tax Audits conducted						
Number of Site Visits						
Taxes Debited on the basis of Audits						
Number of tax offences reported	5.021	4.127	4.484	4.613		
Including tax crimes	4914	3980	4391	4300		
Customs Authority						
Human Resources						
Budget (€)						
Number of cases investigated						
Taxes Debited on the basis of Audits						
Number of tax offences reported	109	106	122	102		
Court Cases						Public Prosecution Service
Total number of proceedings started						
Number of pending/unresolved court cases						
Total number of convictions	6.452	6.175	4.948	5.683		(1st instance)
Including of natural persons						
Including of legal persons						
Number of court cases resolved with an acquittal						
Number of court cases resolved in another way						
Number of court cases resolved in sentences						
Amount of seized financial means						
Including natural persons						
Including corporate bodies						
Including fines						
Amount of fines						
Including imprisonment						
of which, conditional sentence						
of which, unconditional imprisonment						

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Portugal	Interventions in response to the publication of the Panama Papers
Processing and analysing the Panama Papers data	<p>The Tax and Customs Authority, through the Tax Fraud Investigation and Special Actions Central Department (DSIFAE), are analysing the data. The methodology consisted on downloading the data available on the ICIJ website and extracting the entities (offshore entities, intermediaries or officers) linked to Portugal, mainly using the ICIJ criteria: Jurisdiction = "Portugal".</p> <p>The following step consisted on finding the Portuguese Tax Identification Number (TIN) for each of those entities (natural and legal persons). So far it has been identified 223 entities from which 196 are natural persons and 27 are legal persons.</p> <p>Using the TIN, all the information available on the AT databases as well as on open sources was collected and has been being analysed.</p> <p>This task will focus on entities (natural and legal persons) linked to offshores that, according to ICIJ data, are still active or present struck-off/deregistered date beyond 01-01-2012 (due to the statute of limitations period for assessment of taxes by the authorities).</p>
Supervisory activities	
Investigations initiated	
(Pre) trial proceedings initiated	
Fines and sentences	
Other information	