

# SEMINARIO INTERNACIONAL

## “REFORMAS FISCALES EN PORTUGAL”

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Universidad de Sevilla – Facultad de Derecho, 25 de octubre de 2022

**1. THE PRESENT** (Where is Portugal now)

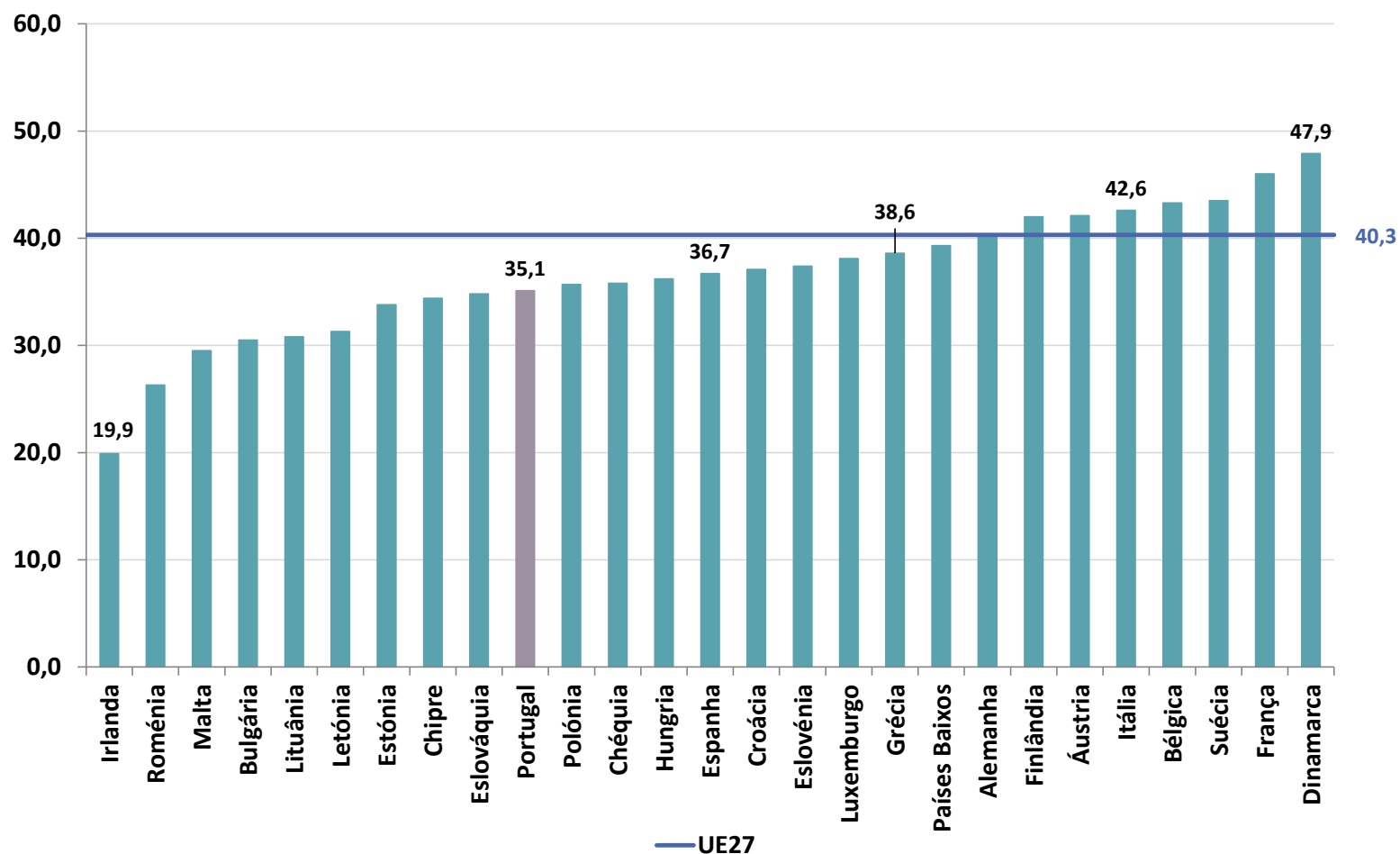
**2. THE PAST** (How Portugal got here)

**3. THE FUTURE** (Where Portugal is heading, and may be heading, in the near future)

# **THE PRESENT**

(Where Portugal is now)

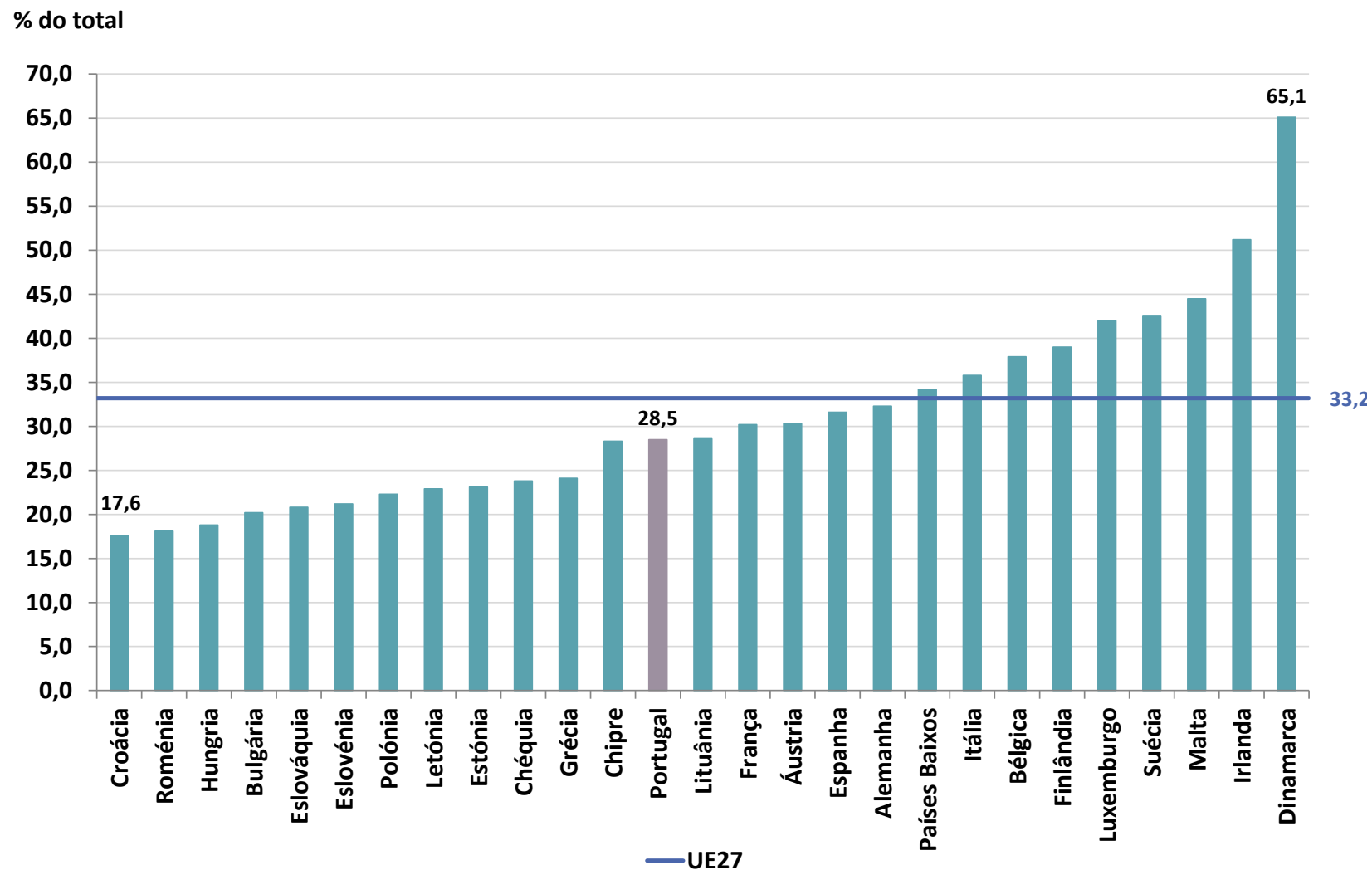
## TOTAL TAX BURDEN IN PORTUGAL (COMPARED WITH EU) IN 2020



**NOTE:** In 2021 total tax burden in Portugal reached **35,8%**. Similar amount expected for 2022 (i.e., according to current estimates, Tax Revenue should equal 25.4% of GDP and Social Security Contributions should equal 10.2% of GDP, in a total of 35.6%).

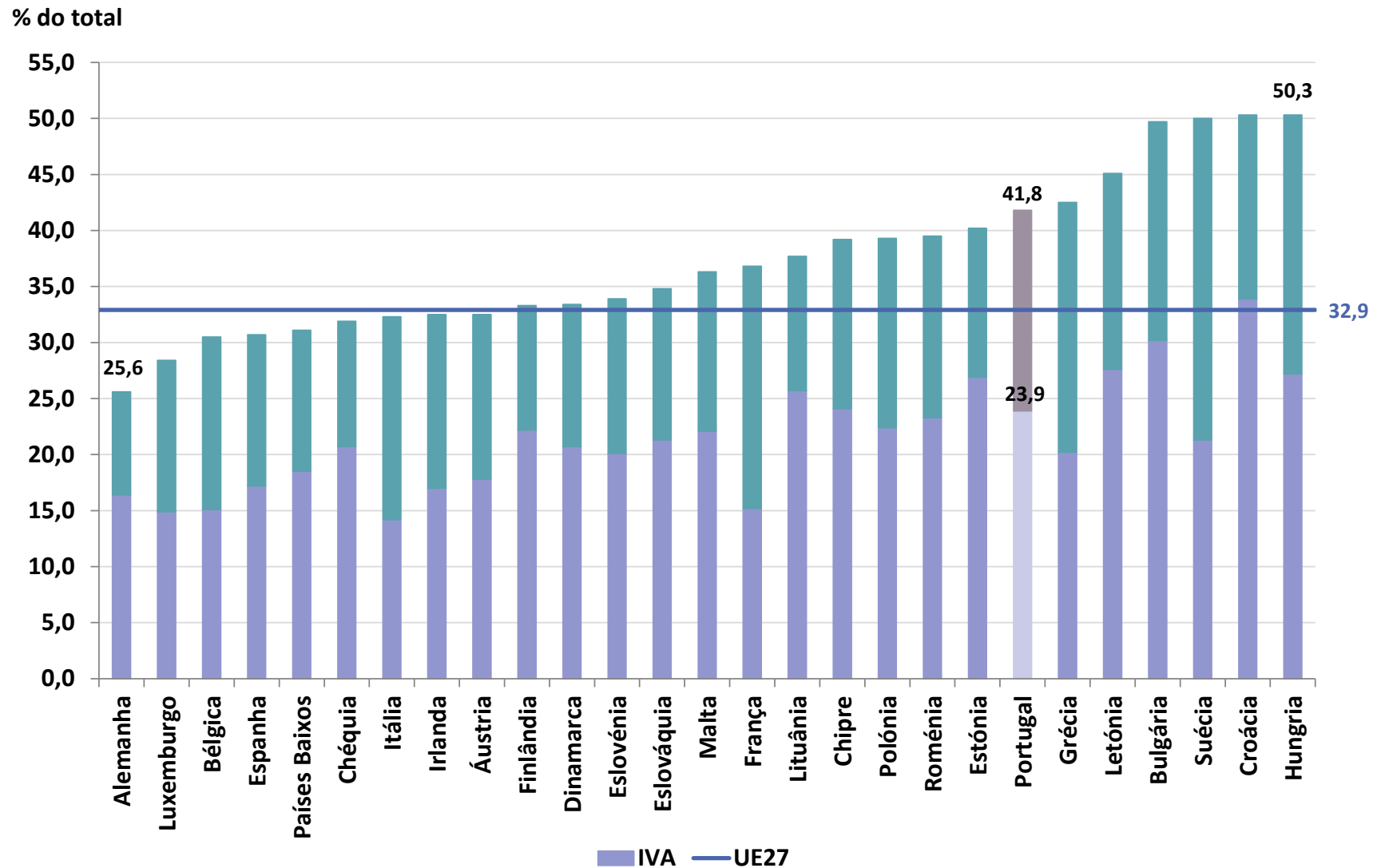
Source: INE – Estatísticas das Receitas Fiscais (2022)

## WEIGHT OF DIRECT TAXES IN PORTUGAL (COMPARED WITH EU) IN 2020



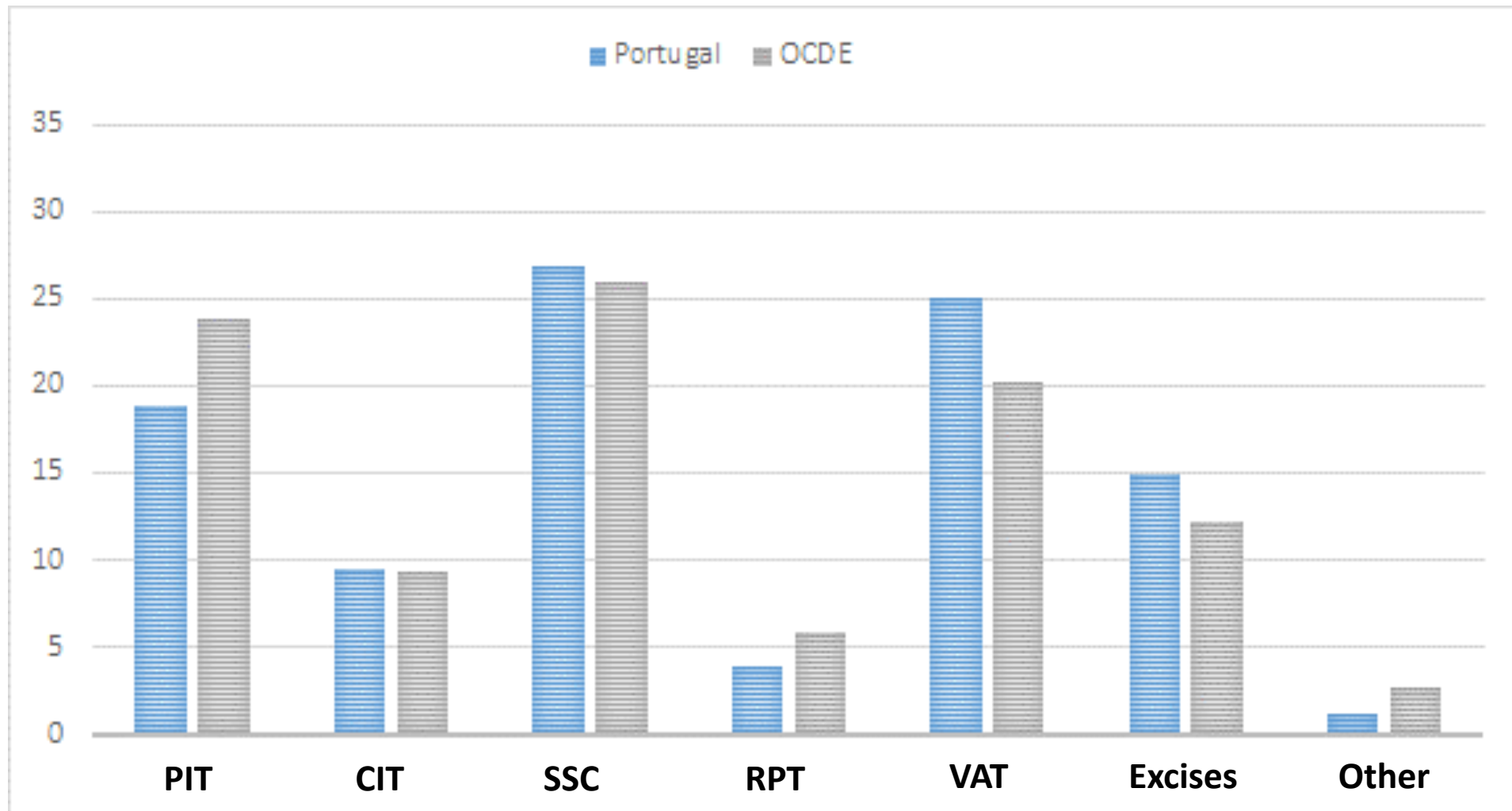
Source: INE – Estatísticas das Receitas Fiscais (2022)

## WEIGHT OF INDIRECT TAXES IN PORTUGAL (COMPARED WITH EU) IN 2020



Source: INE – Estatísticas das Receitas Fiscais (2022)

## TAX STRUCTURE (COMPARED WITH OECD AVERAGE)



Source: OECD Revenue Statistics

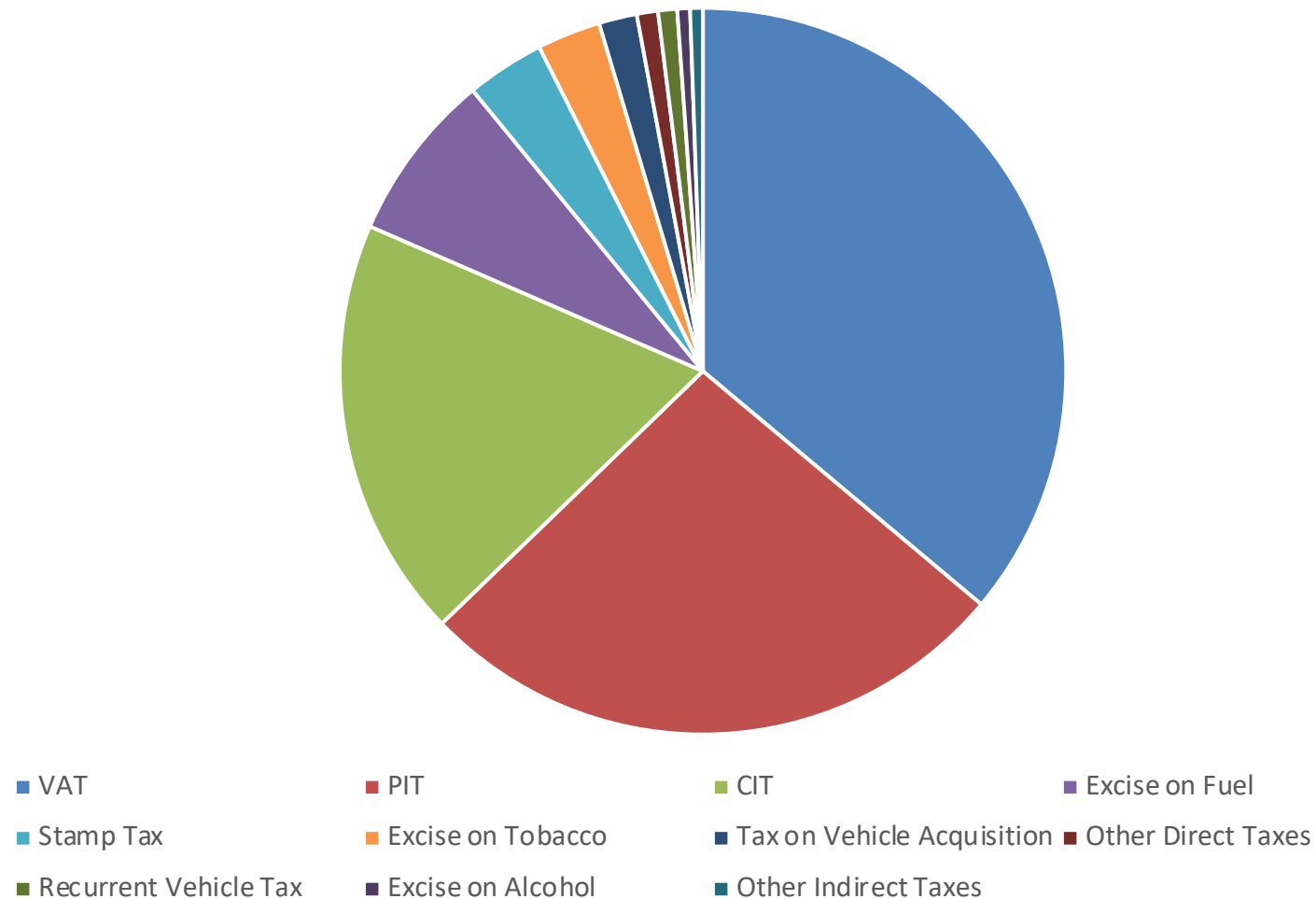
## TAX STRUCTURE (COMPARED WITH EU AVERAGE)



Source: EU Tax Trends (2022)



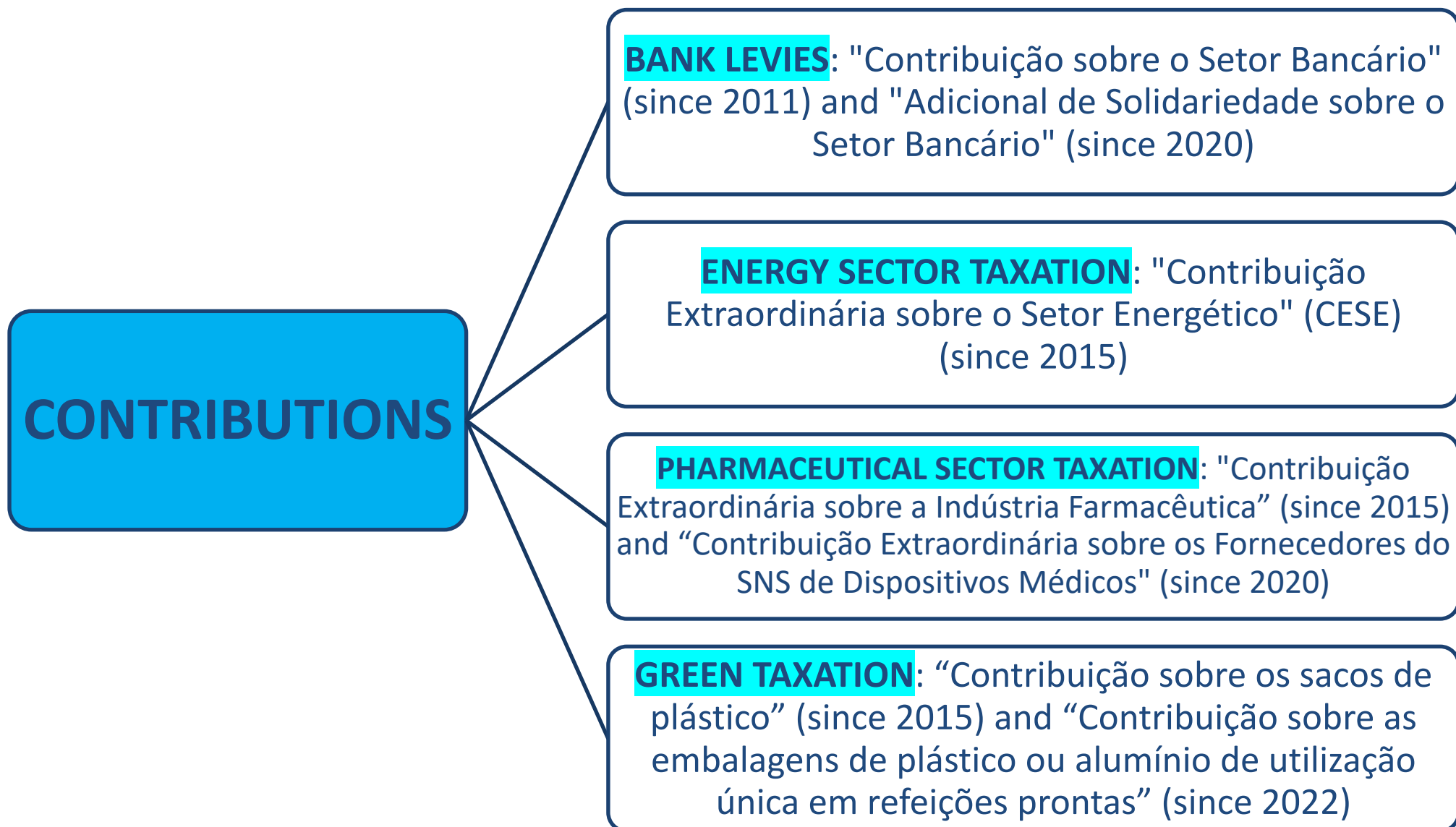
## (Estimated) Tax Revenue - 2022 (million euros and % of total tax revenue)



**NOTE:** Expected Total Tax Revenue for 2022: **48.591,1 million euros** (increase of 6.73% compared with 2021)

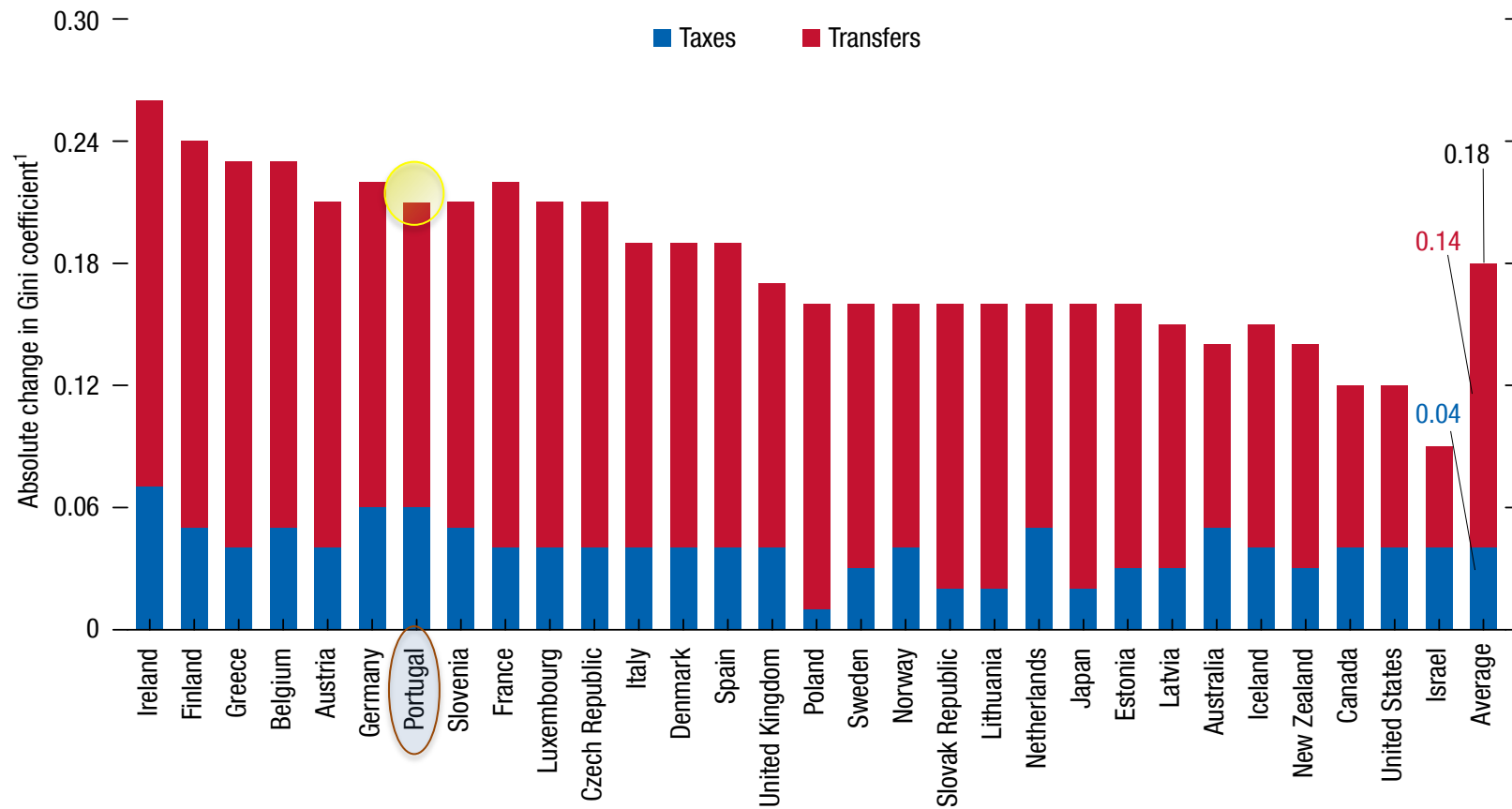
Source: Síntese Execução Orçamental - 2022 (DGO)

## THE PROLIFERATION OF FINANCIAL AND PARAFISCAL CONTRIBUTIONS IN PORTUGAL



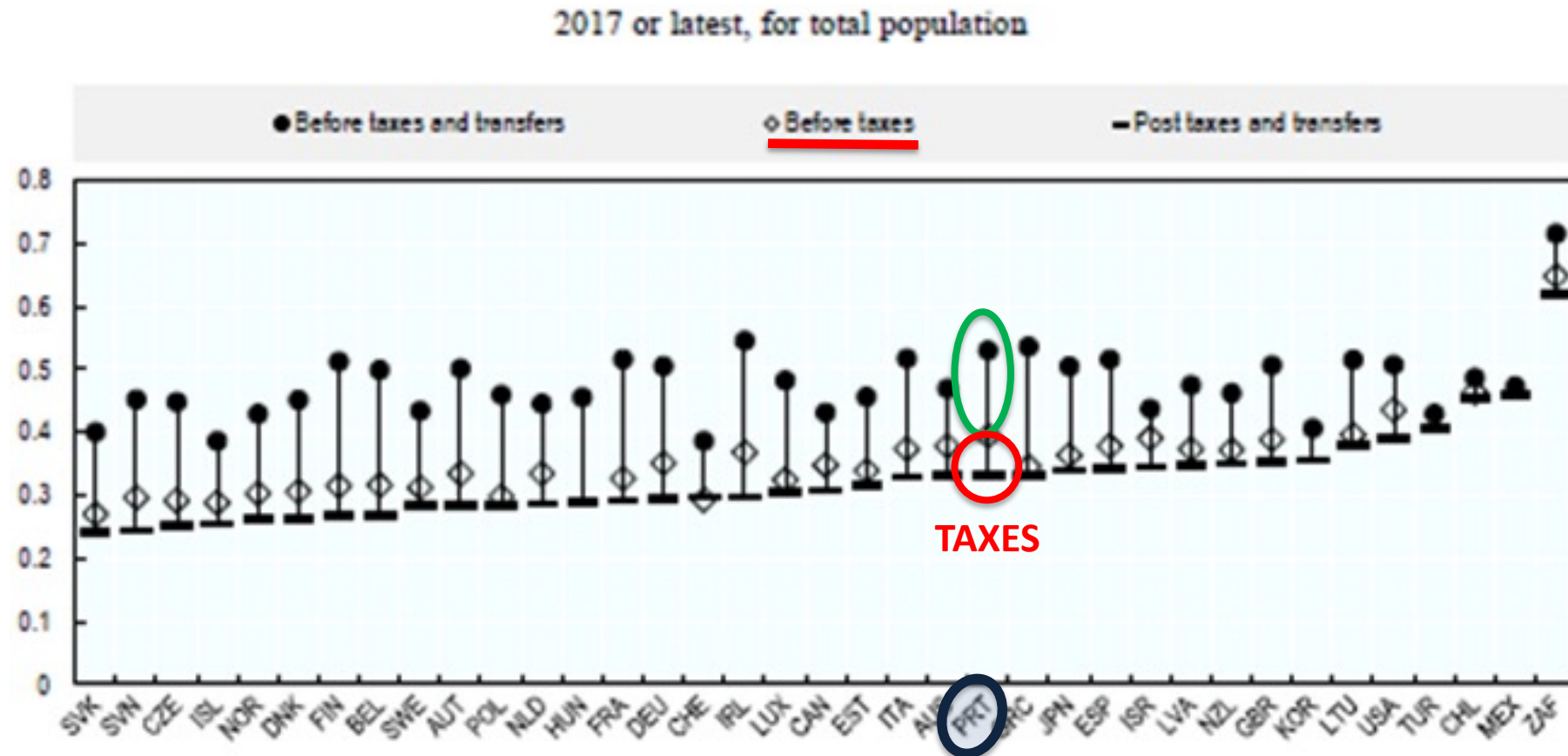
# INEQUALITY (NOW)

# REDISTRIBUTIVE IMPACT OF TAXES AND SOCIAL TRANSFERS



Source: FMI, Fiscal Monitor, Tackling Inequality (2017)

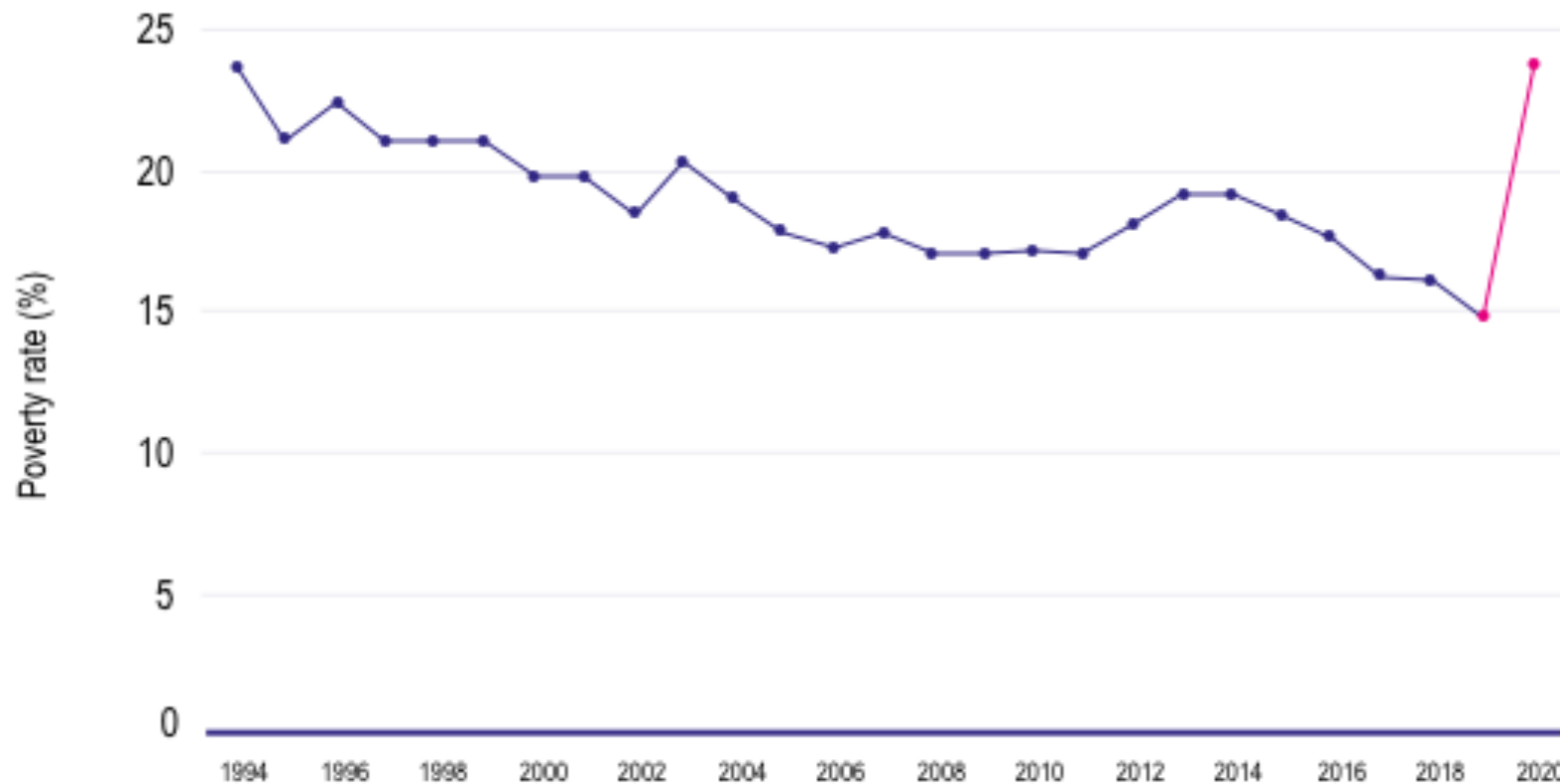
# GINI AFTER THE OPERATION OF THE **TAX SYSTEM** AND THE **SOCIAL TRANSFER SYSTEM**



Source: OECD Tax Policy Reforms (2019)

## THE PRESENT - INEQUALITY

**The Poverty Rate has increased dramatically** since the beginning of the Covid-19 Pandemic.



Source: The Social Observatory of the “la Caixa” Foundation

## THE PRESENT - INEQUALITY

**Income losses** due to the crisis were largest for the **lower and lower-middle income groups** (income loss compared to the no-crisis scenario, by income group, in %).



Source: The Social Observatory of the “la Caixa” Foundation

# CONCLUSIONS - PORTUGAL NOW



## PORTUGAL NOW - CONCLUSIONS

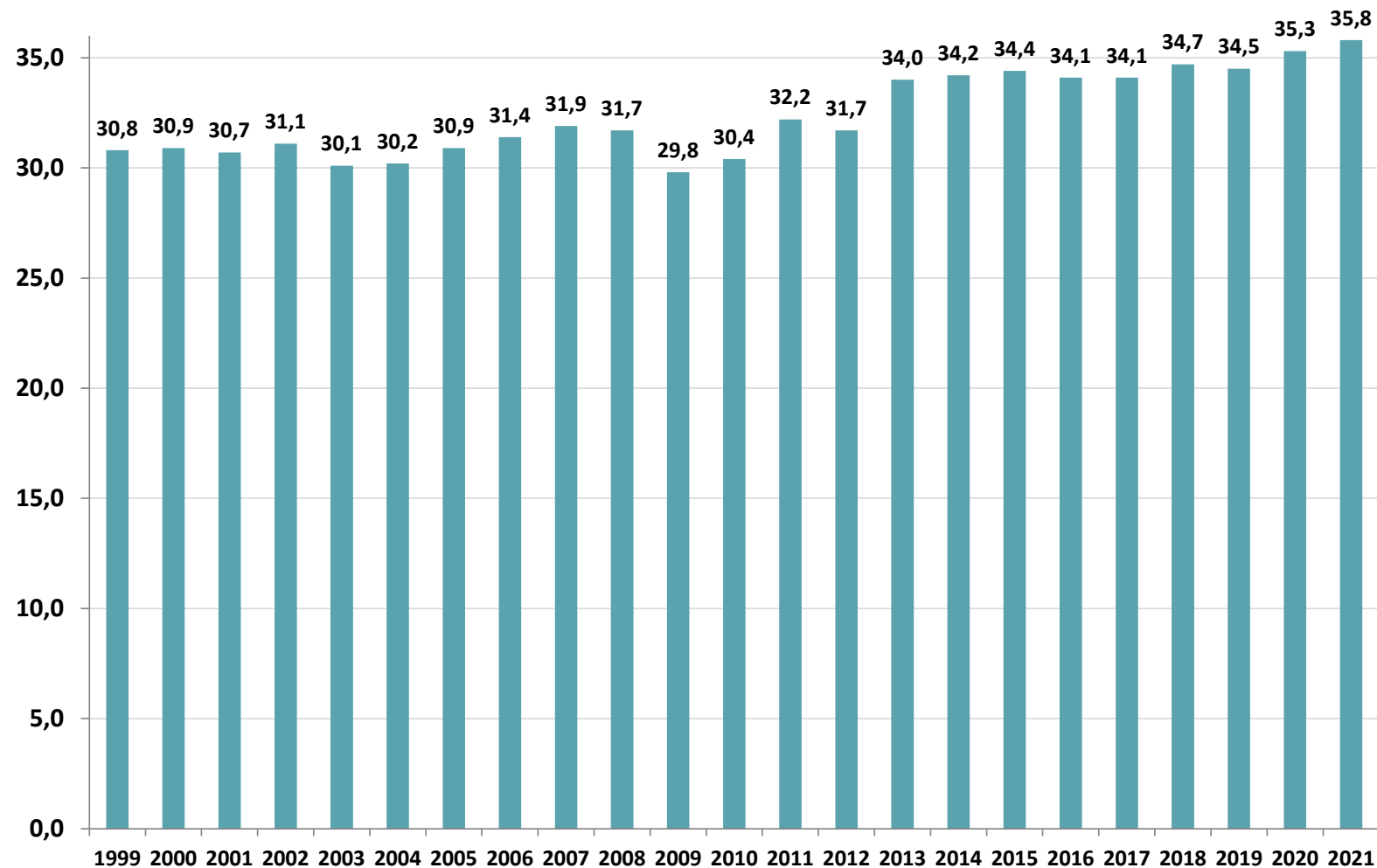
- The current overall fiscal burden (including social security contributions) is around **35,8%**, **the highest ever in Portugal.**
- The Tax Structure (“Tax Mix”) is currently **highly dependent of Indirect Taxation** (which, overall represents **more than 50% of the total tax revenues**). This Tax Mix, although supposedly better targeted at fostering Economic Growth (see OECD seminal study “Taxation and Economic Growth”), **raises equity concerns**, due to the regressive nature of this type of taxation.
- These concerns are particularly strong now due to the **significant increase in poverty rates in Portugal following the pandemic and the current energy prices crises** (and the associated strengthening of income and wealth inequality, which was already strong before these crises).

- Recurrent Property Taxation is **still underused in Portugal compared with other OECD countries**. Further, Portugal does not possess an Annual Wealth Tax.
- In the last decade there was a **proliferation of Financial and Parafiscal Contributions in Portugal as alternative sources of financing for the State**. These type of contributions, in theory characterized by the existence of a synallagmatic relationship between the State and defined groups of taxpayers, denote a policy preference for the Equivalence Principle over the Ability to Pay Principle. Although Contributions have some policy advantages, they tend to make the tax system more complex and opaque.
- Although Portugal is closely following the EU discussions, it still did not introduce a Financial Transaction Tax (FTT) nor a Digital Services Tax (DST), as France, Italy and, more recently, Spain have done.

# **THE PAST**

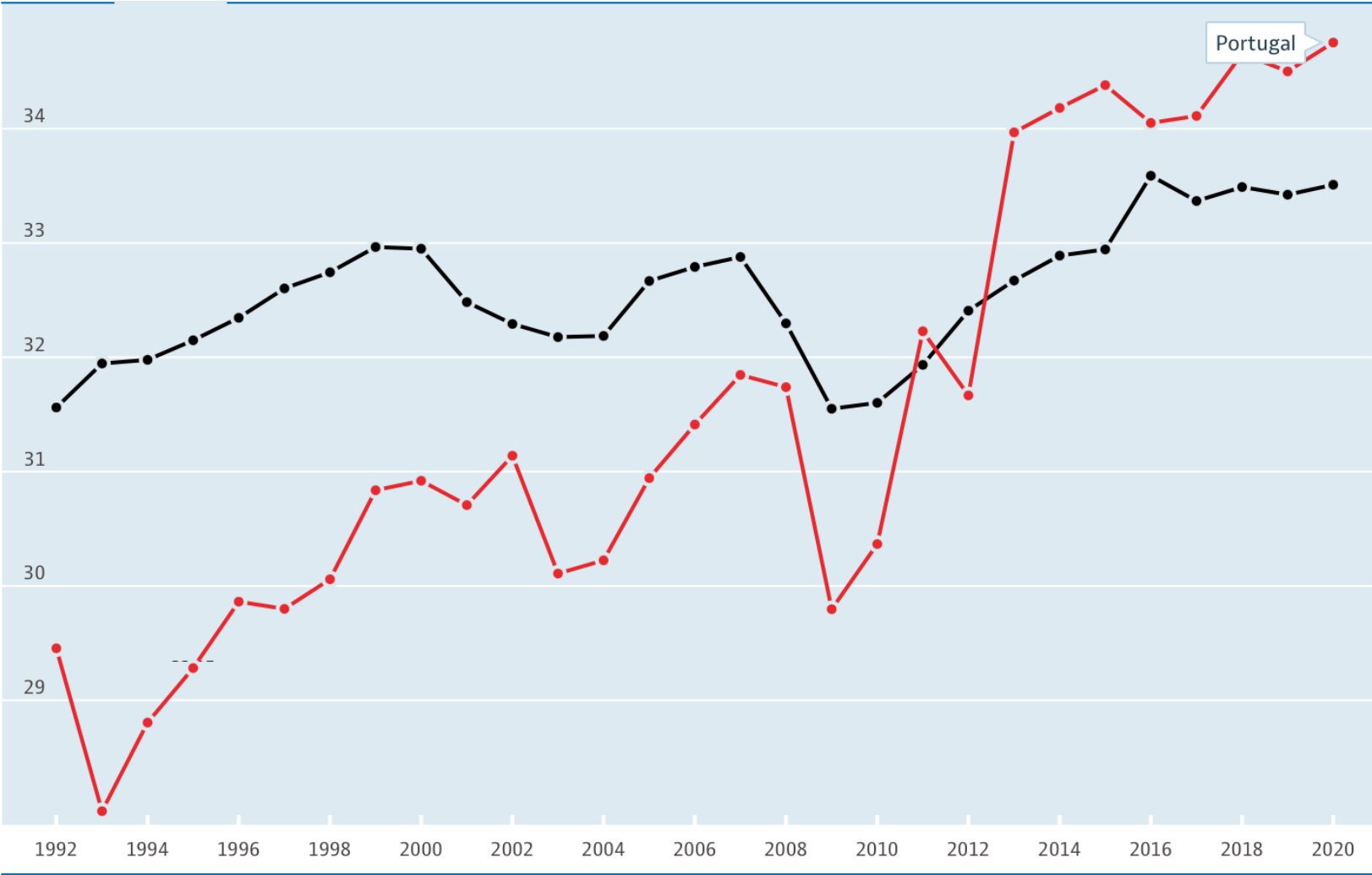
(How Portugal got here)

### EVOLUTION OF FISCAL BURDEN IN PORTUGAL (1999 TO 2021) (GDP%)



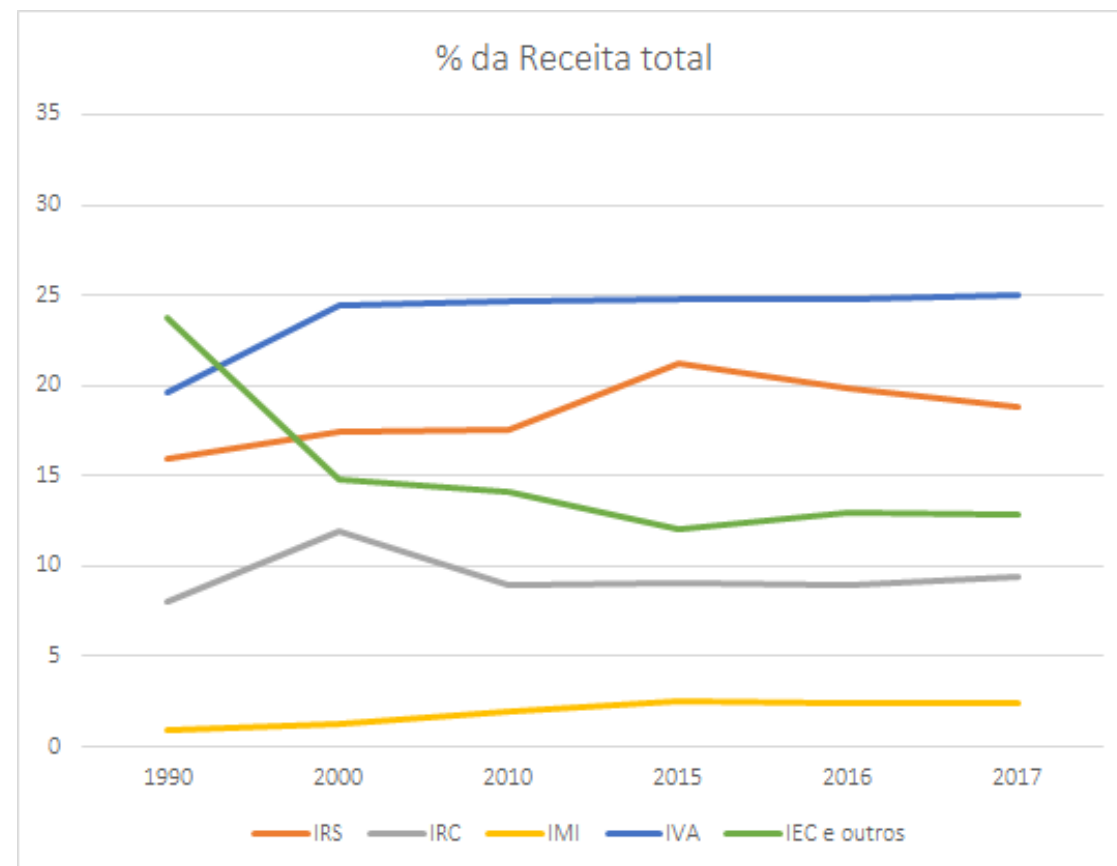
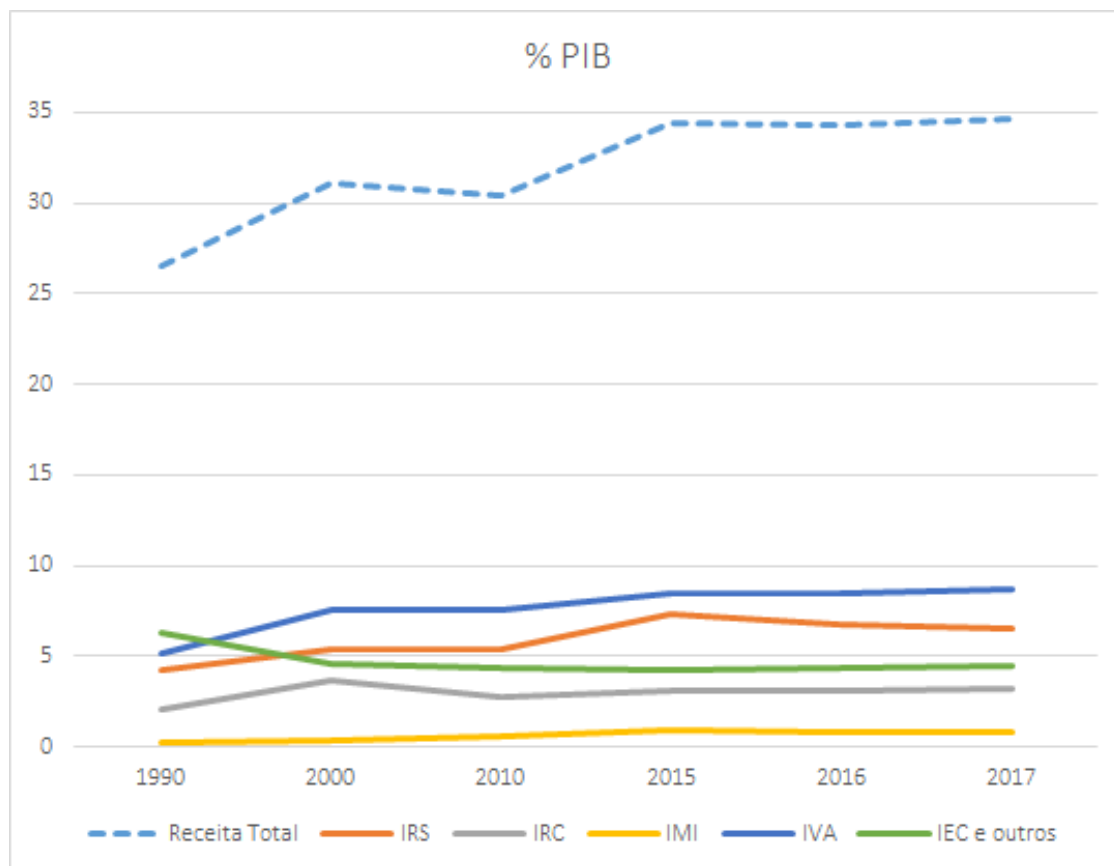
Source: INE 2022 (Instituto Nacional de Estatística)

**EVOLUTION OF TAX REVENUE (TOTAL, % OF GDP) (PORTUGAL VS. OECD AVERAGE) (1992 TO 2020) (GDP%)**



Source: OECD Tax Statistics)

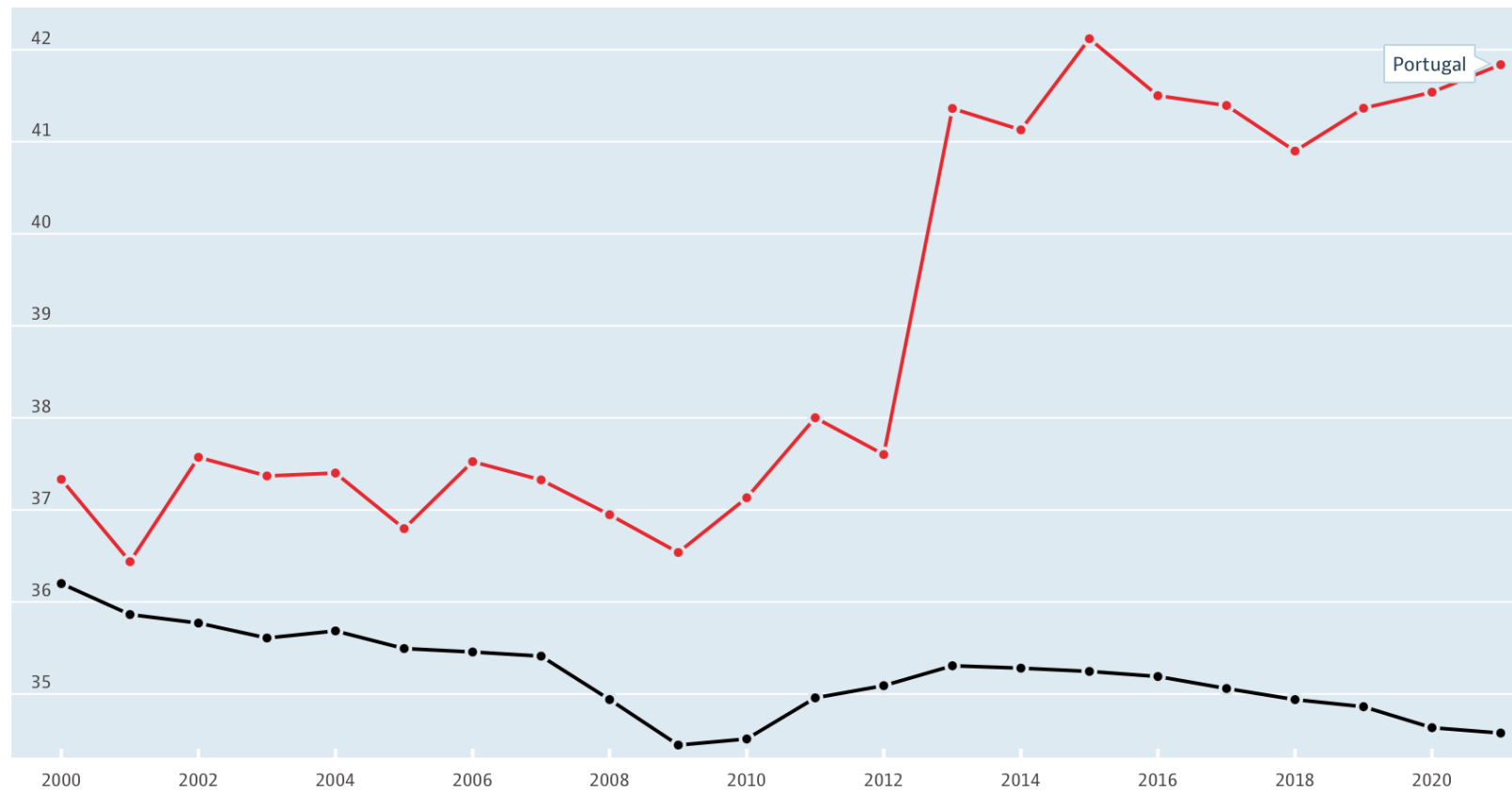
## EVOLUTION OF THE TAX STRUCTURE IN PORTUGAL SINCE 1990



Source: OECDStat

# PERSONAL INCOME TAX (EVOLUTION)

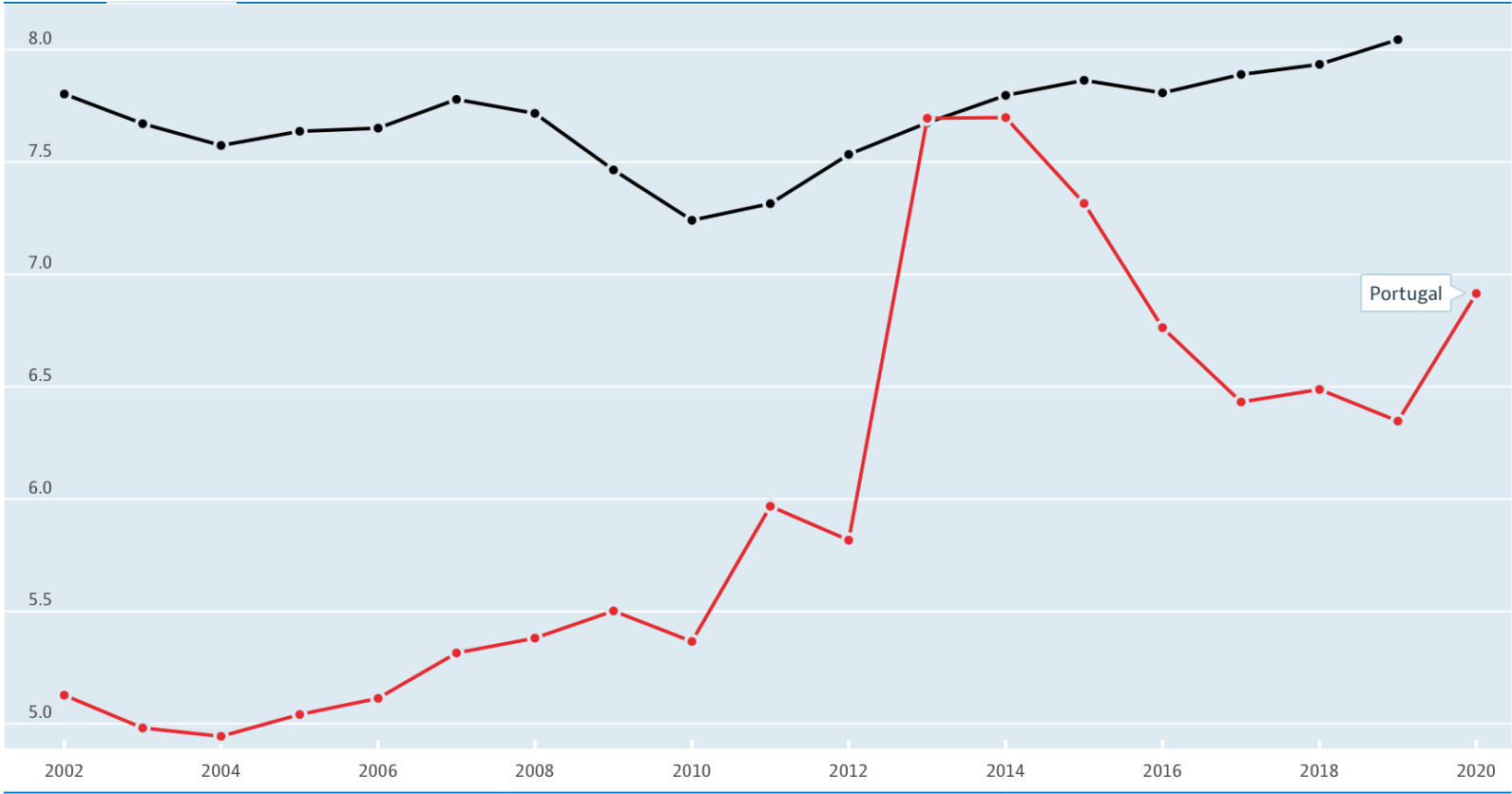
## EVOLUTION OF TAX WEDGE (TOTAL, % OF LABOUR COSTS) (PORTUGAL VS. OECD AVERAGE) 2000 TO 2021



Source: OECD Tax Statistics)



**EVOLUTION OF TAX ON PERSONAL INCOME (TOTAL, % OF GDP) (PORTUGAL VS. OECD AVERAGE) (2002 TO 2020) (GDP%)**



Source: OECD Tax Statistics)

## THE PIT REFORM DURING THE “TROIKA” YEARS

*LAW n.º 55-A/2010-31/12 (Art. 68º PIT Code)*

TAXABLE INCOME ( in euros)	Tax Rates (in percentage)	
	Normal (A)	Average (B)
Até 4 898	11,50	11,500
De mais de 4 898 até 7 410	14,00	12,3480
De mais de 7 410 até 18 375	24,50	19,5990
De mais de 18 375 até 42 259	35,50	28,5860
De mais de 42 259 até 61 244	38,00	31,5040
De mais de 61 244 até 66 045	41,50	32,2310
De mais de 66 045 até 153 300	43,50	38,6450
Superior a 153 300	46,50	

*LAW n.º 66-B/2012 - 31/12 (Art. 68º PIT Code)*

TAXABLE INCOME ( in euros)	Tax Rates (in percentage)	
	Normal (A)	Média (B)
Até 7 000	14,50	14,500
De mais de 7 000 até 20 000	28,50	23,600
De mais de 20 000 até 40 000	37	30,300
De mais de 40 000 até 80 000	45	37,650
Superior a 80 000	48	---

## THE PIT SCHEDULE NOW (2022)

*LAW n.º 12/2022, 27/06 (Art. 68º PIT Code)*

Rendimento coletável (euros)	Taxas (percentagem)	
	Normal (A)	Média (B)
Até 7116	14,50	14,500
De mais de 7 116 até 10 736	23,00	17,366
De mais de 10 736 até 15 216	26,50	20,055
De mais de 15 216 até 19 696	28,50	21,976
De mais de 19 696 até 25 076	35,00	24,770
De mais de 25 076 até 36 757	37,00	28,657
De mais de 36 757 até 48 033	43,50	32,141
De mais de 48 033 até 75 009	45,00	36,766
Superior a 75 009	48,00	-

## THE PIT SURCHARGES INTRODUCED DURING THE" TROIKA" YEARS (and STILL MAINTAINED)

*LAW n.º 64-B/2011, 30/12 (Art. 68º-A PIT Code)*

TAXABLE INCOME (euros)	TAX RATES (percentage)
From 80 000 to 250 000 .....	2,5
Superior to 250 000 .....	5

*Law n.º 49/2011, 07/09*

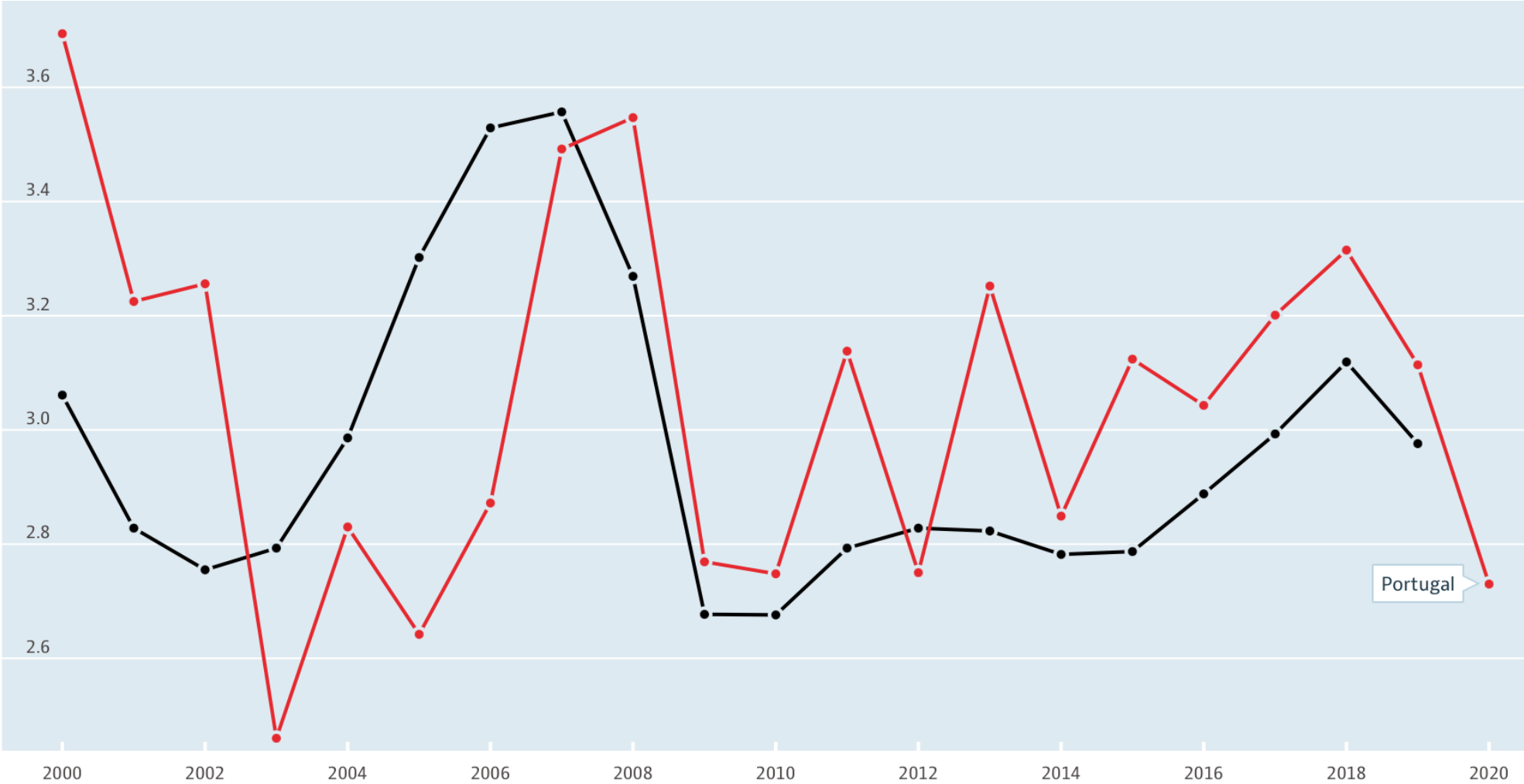
Article 72-A (\*) extraordinary surcharge

1 - On the part of the PIT taxable income resulting from the aggregation under the terms of article 22, plus income subject to the special rates set out (...) article 72, earned by individuals residing in the Portuguese territory, which exceeds, per taxable person, the annual value of the guaranteed minimum monthly remuneration, an extraordinary surcharge of 3.5% applies.

(...)

# CORPORATE INCOME TAX (EVOLUTION)

EVOLUTION OF TAX ON CORPORATE PROFITS (TOTAL, % OF GDP) (PORTUGAL VS. OECD AVERAGE) (2002 TO 2020)



Source: OECD Tax Statistics)

**STATE CIT SURCHARGES** INTRODUCED BY LAW N.º 12-A/2010, 30/06, AND SUBSEQUENTLY ENLARGED DURING “TROIKA” YEARS (FIRST, THROUGH LAW 64-B/2011, 30/12) AND SUBSEQUENT LAWS (THE LAST CHANGE BY LAW N.º 114/2017, 29/12).

**CURRENTLY: TOTAL MAXIMUM RATE OF 31.5%** (21% REGULAR CIT RATE + MAXIMUM OF 1.5% MUNICIPAL SURCHARGE + MAXIMUM 9% STATE SURCHARGE)



## CIT TAX RATES

Entities	Tax rates
Resident entities and Permanent Establishments in Portugal of Non-resident entities	<b>21%</b>
Resident entities and Permanent Establishments in Portugal of Non-resident entities, <b><u>classified as SMEs</u></b>	<b>17%</b> (for the first € 25.000 of taxable income)
	<b>21%</b> (for the remaining taxable income)

## State CIT Surcharge

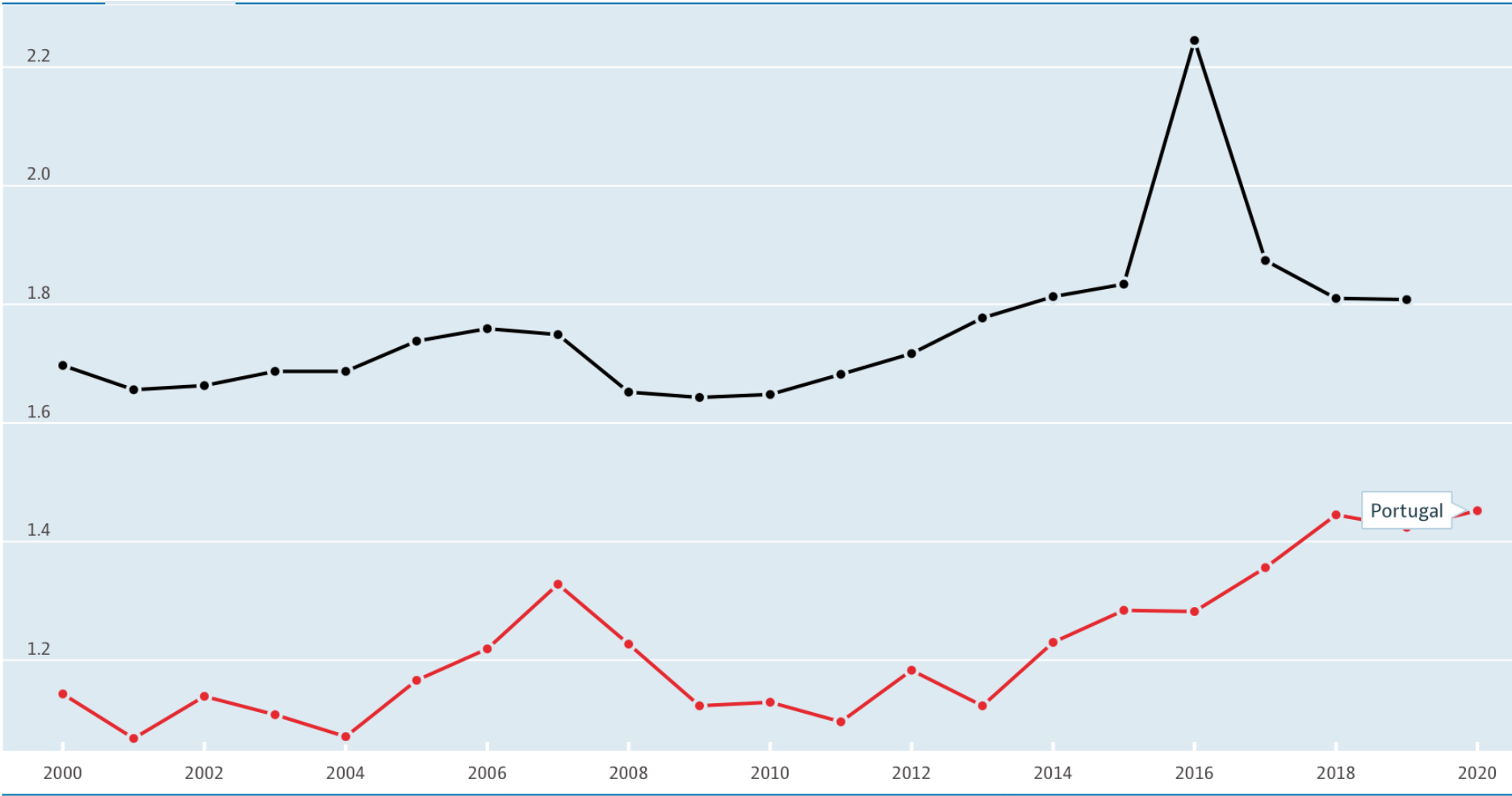
*(in addition to the Municipal Surcharge, which has a maximum tax rate of 1.5%)*

	Tax Rate (%)
TAXABLE PROFITS (€)	
From 1.500.000 to 7.500.000	3%
From 7.500.000 to 35.000.000	5%
Superior to 35.000.000	9%

**NOTE:** THIS CIT STATE SURCHARGE WAS INITIALLY INTRODUCED BY LAW N.º 12-A/2010, 30/06, AND SUBSEQUENTLY ENLARGED DURING THE “TROIKA” YEARS (FIRST, THROUGH LAW 64-B/2011, 30/12) AND SUBSEQUENT LAWS (THE LAST CHANGE INTRODUCED BY LAW N.º 114/2017, 29/12)

# PROPERTY TAXATION (EVOLUTION)

**EVOLUTION OF TAX ON PROPERTY (TOTAL, % OF GDP) (PORTUGAL VS. OECD AVERAGE) (2000 TO 2020)**



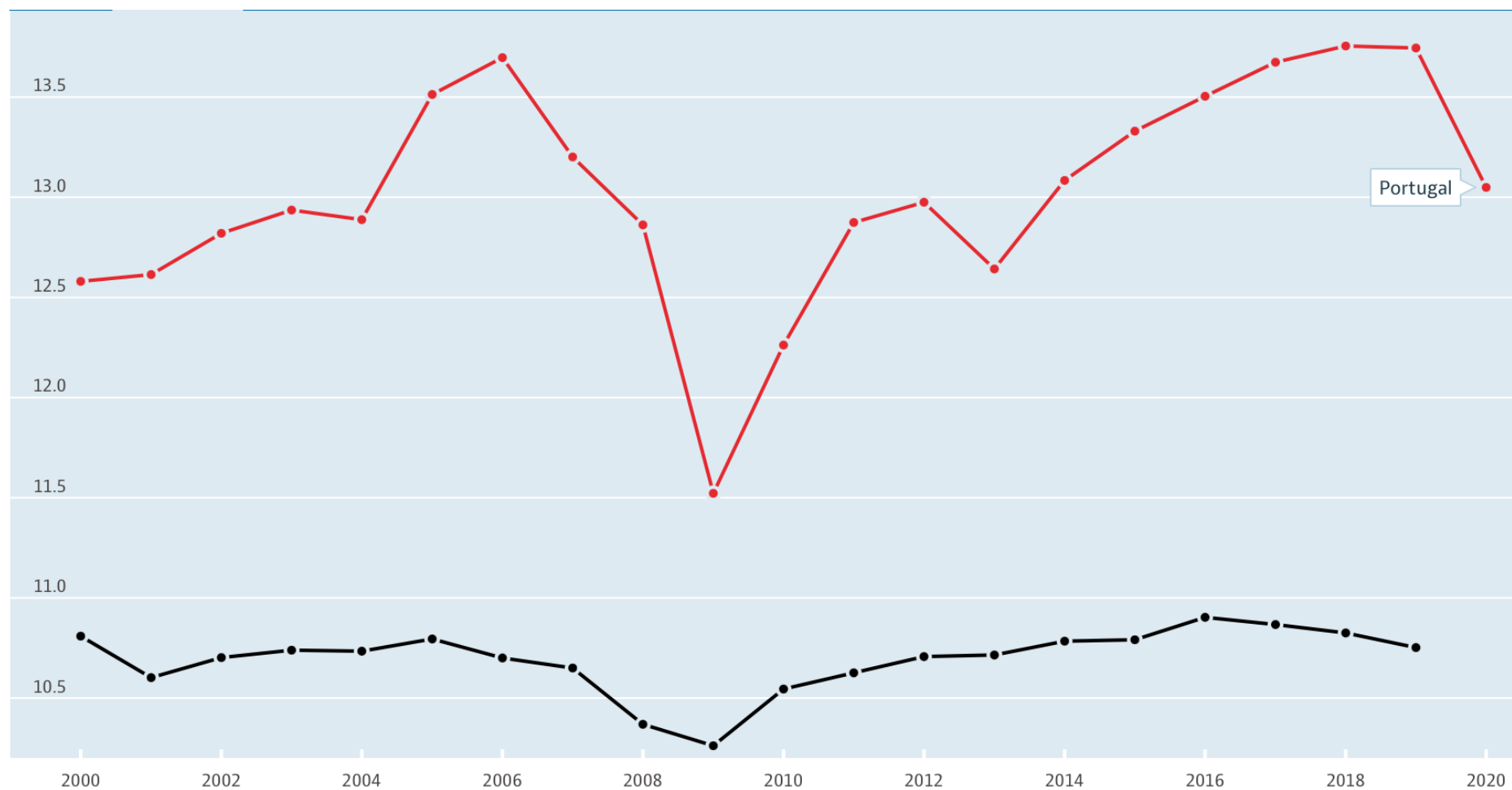
Source: OECD Tax Statistics)

- The **Additional** to Municipal Property Tax (AIMI) is a relatively recent tax (Created by Law n.º 42/2016, 28/11). It started to be applied in 2017 , with the intent to tax real property in a more progressive way.
- The tax has a personal character on what concerns individuals. The incidence of the tax depends on the aggregate value of the the real estate that a taxpayer owns (for individuals, (i) total real estate value below €600,000 is exempt; (ii) real estate between €600,000 and €1 million is subject to a standard rate; and real estate of an aggregate value superior to €1 million is subject to an aggravated rate) .

- **AIMI is levied on the real estate assets of individuals and companies. It covers residential buildings, land for construction and undivided inheritances, that is, inheritances that have not yet been shared among the heirs.**

# CONSUMPTION TAXATION (EVOLUTION)

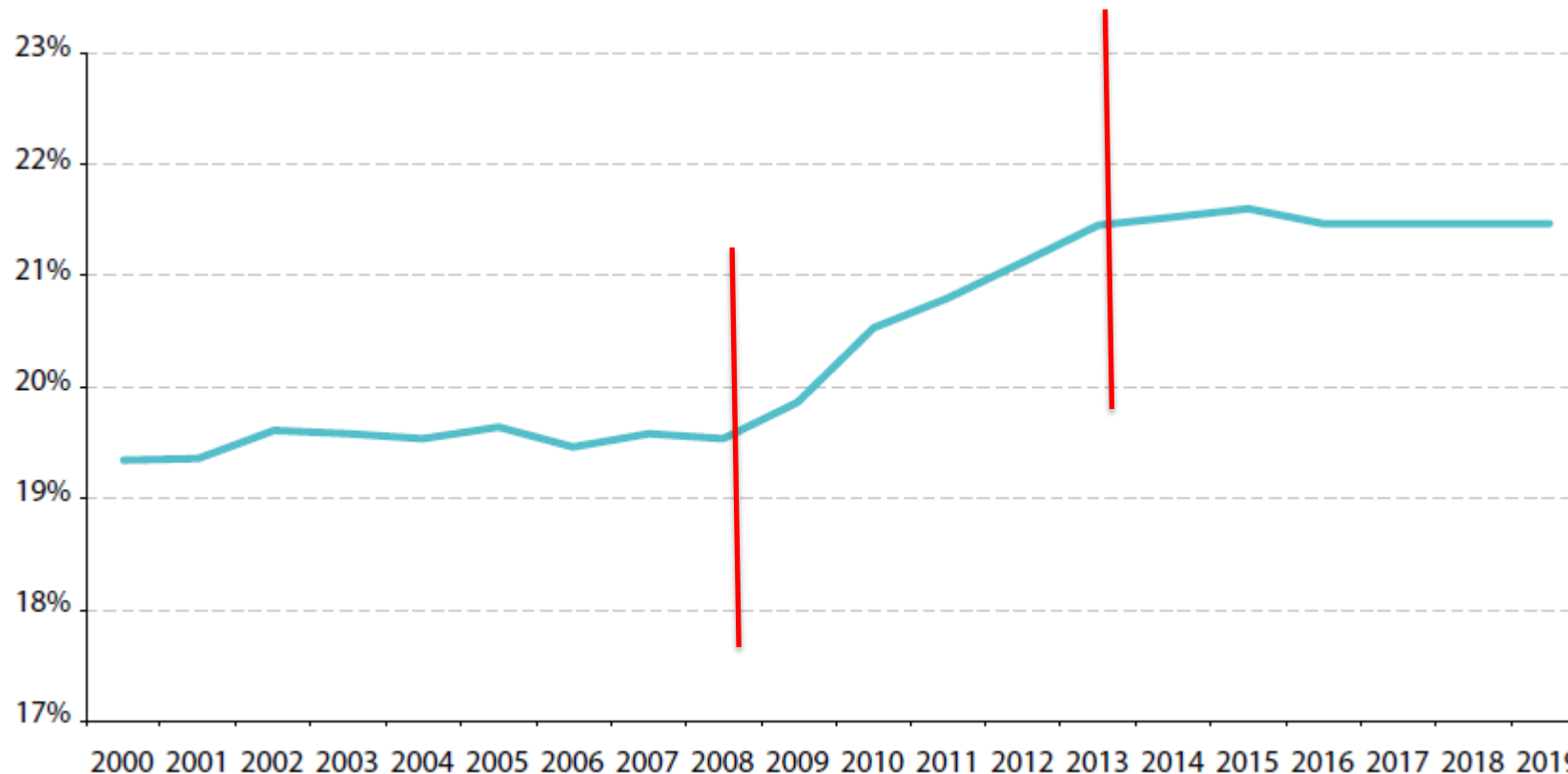
## EVOLUTION OF CONSUMPTION TAXES (TOTAL, % OF GDP) (PORTUGAL VS. OECD AVERAGE) (2000 TO 2020)



Source: OECD Tax Statistics)

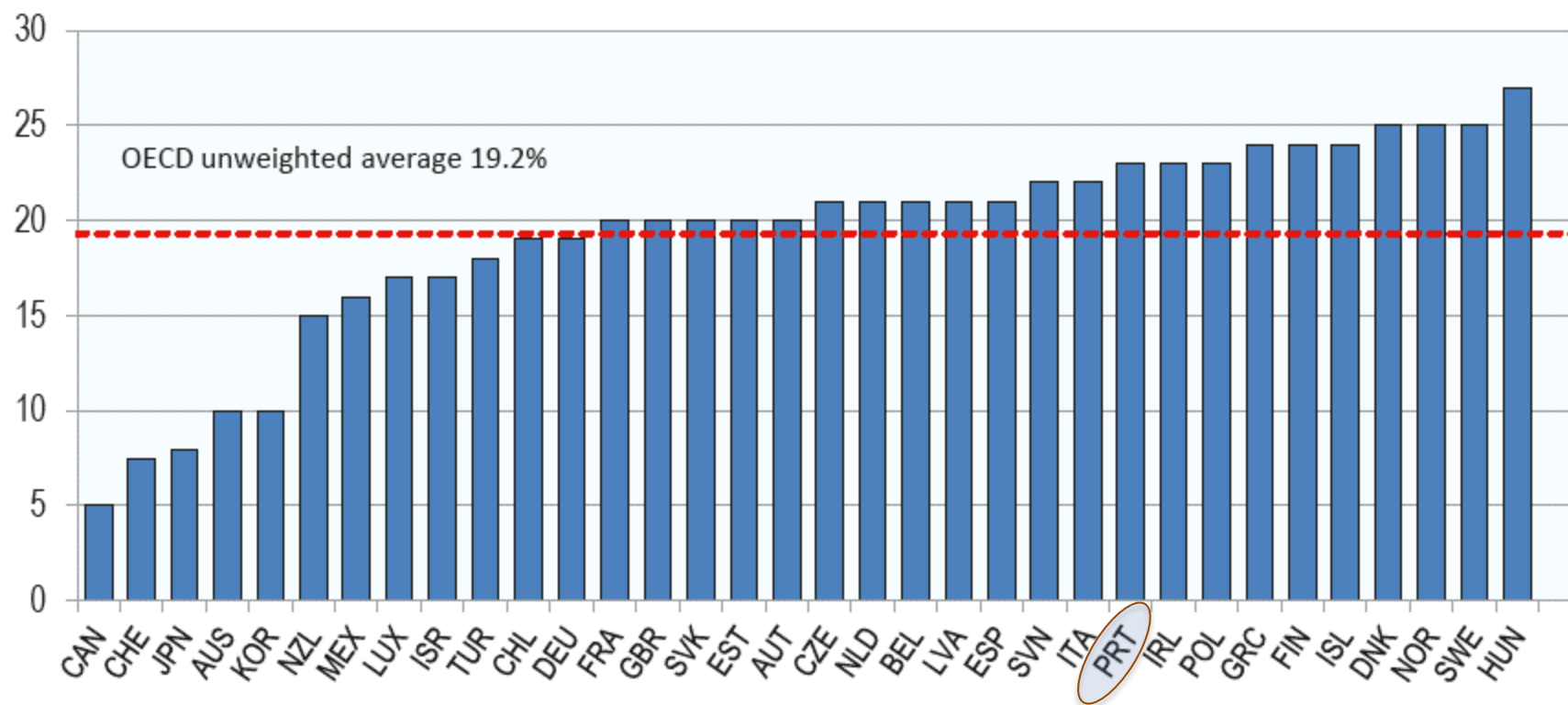


## EVOLUTION OF STANDARD VAT RATES IN EU (2000-2019)



**NOTE:** In 2008, Portugal had a Standard VAT Rate of 20%, an Intermediate VAT Rate of 12%, and a Reduced Rate of 5%. In 2011, with the “Troika” years, these rates were increased to 23%, 13% and 6%, respectively. These rates have never been lowered again since then.

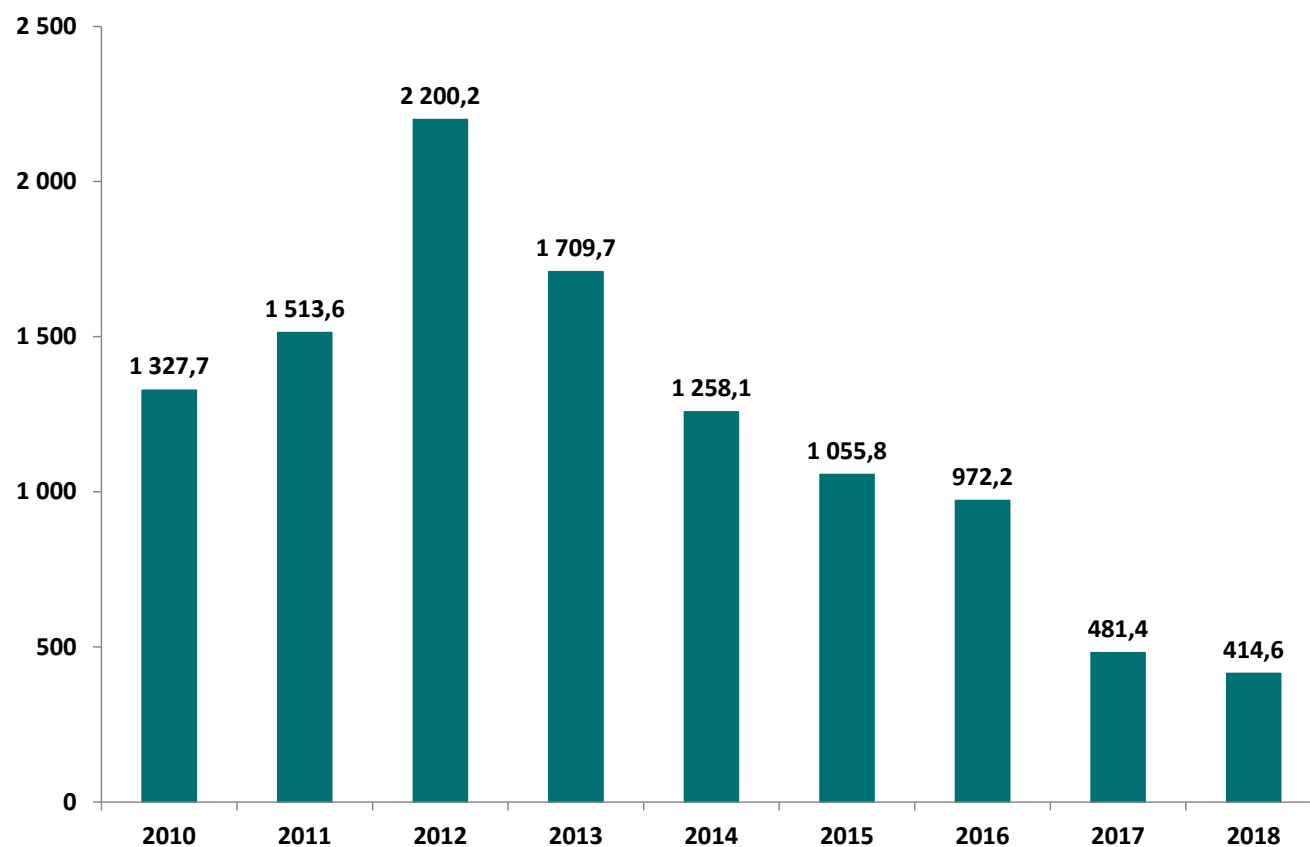
## STANDARD VAT RATES IN OECD COUNTRIES IN 2018



Fonte: OECD Consumption Tax Trends (2018)

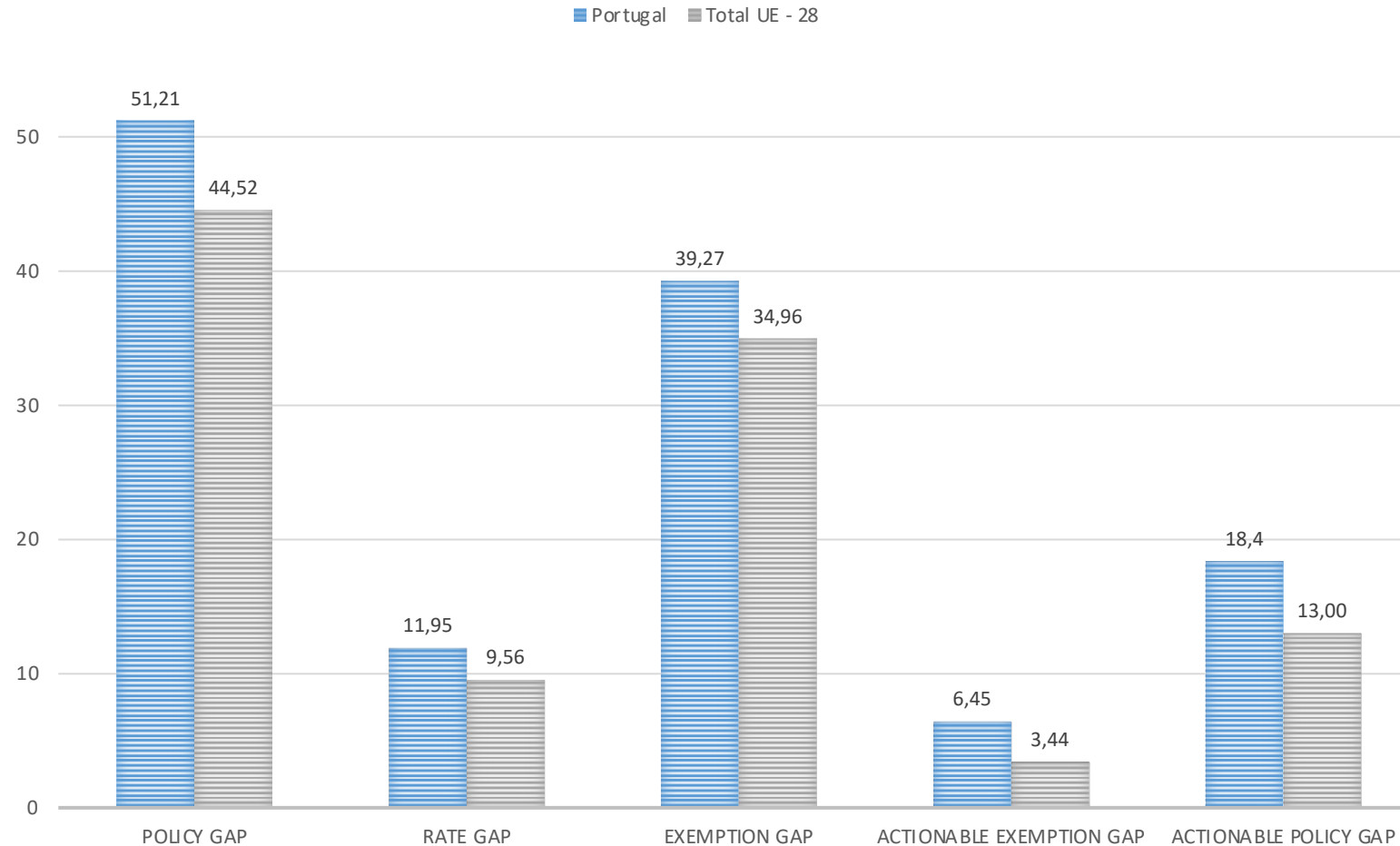
## THE PAST – VAT GAP EVOLUTION

VAT GAP (2010 TO 2018) (IN MILLION EUROS)



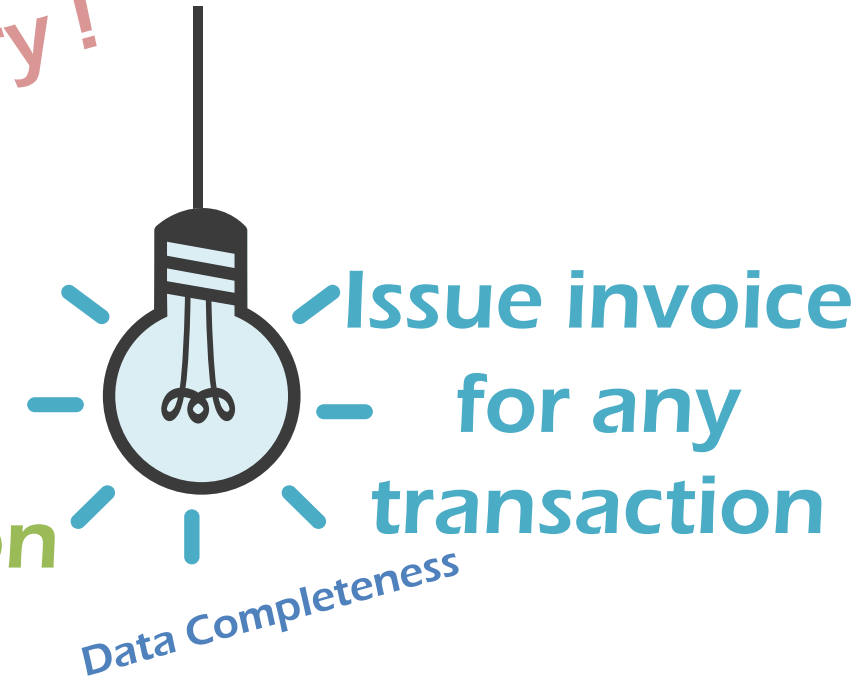
Source: INE (Instituto Nacional de Estadística)

## POLICY GAP, RATE GAP, EXEMPTION GAP e ACTIONABLE GAPS - 2017 (%)



Source: Study and Reports on the VAT Gap in the EU-28 Member States -2019 Final Report

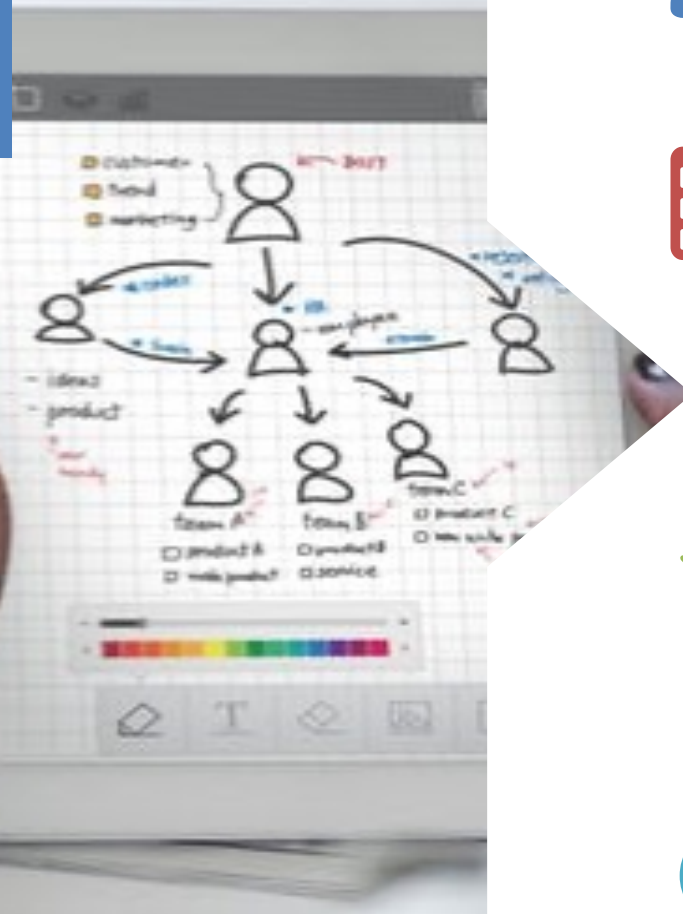
## the context...starting in 2008...



- **FIRST**, IN PORTUGAL IT IS MANDATORY TO ISSUE AN INVOICE FOR ANY SINGLE TRANSACTION. **AND** ALL TAXPAYERS THAT ISSUE INVOICES, INDEPENDENTLY OF THE MODE OF ISSUANCE (ELECTRONIC, PAPER, ETC), MUST COMMUNICATE THEM TO THE TAX AUTHORITIES, EITHER MONTHLY OR ON REAL TIME. MOST OF OUR TAXPAYERS CURRENTLY MAKE THIS COMMUNICATION ON A MONTHLY BASIS, ALTHOUGH A GROWING MINORITY IS STARTING TO OPT FOR THE REAL TIME COMMUNICATION.
- **SECOND**, ALL THIS INFORMATION THAT IS COMMUNICATED TO THE TAX AUTHORITY IS EXTRACTED FROM THE SAF-T. BASICALLY, TAXPAYER'S SOFTWARE EXTRACT FROM THE SAF-T FILE, ON A MONTHLY BASIS, ALL THE INFORMATION THAT MUST BE COMMUNICATED TO THE TAX AUTHORITIES.
- **THIRD**, THIS COMMUNICATION INCLUDES ALL INVOICES ISSUED (B2B, B2C AND B2G). LAST YEAR THIS REPRESENTED OVER 4 BILLION INVOICES.

(\*) National Data Protection Body did not allow receipt of invoice details regarding goods or services

# e-Fatura



Taxpayers subject to VAT have to submit some (\*) information regarding each document issued



Real Time, via web service or Monthly, until the 12<sup>th</sup> of the following month (IN PRINCIPLE, UNTIL THE 5<sup>TH</sup> STARTING IN 2023) by:

- Submitting a file based on SAF-T
- Direct insert on the TA Web Portal



**Increases the Voluntary Compliance**

- incentives for final consumers who provide TIN
- compliance mechanism in place reports mismatches to taxpayers. Assessment with adjustments is issued if there's no reaction



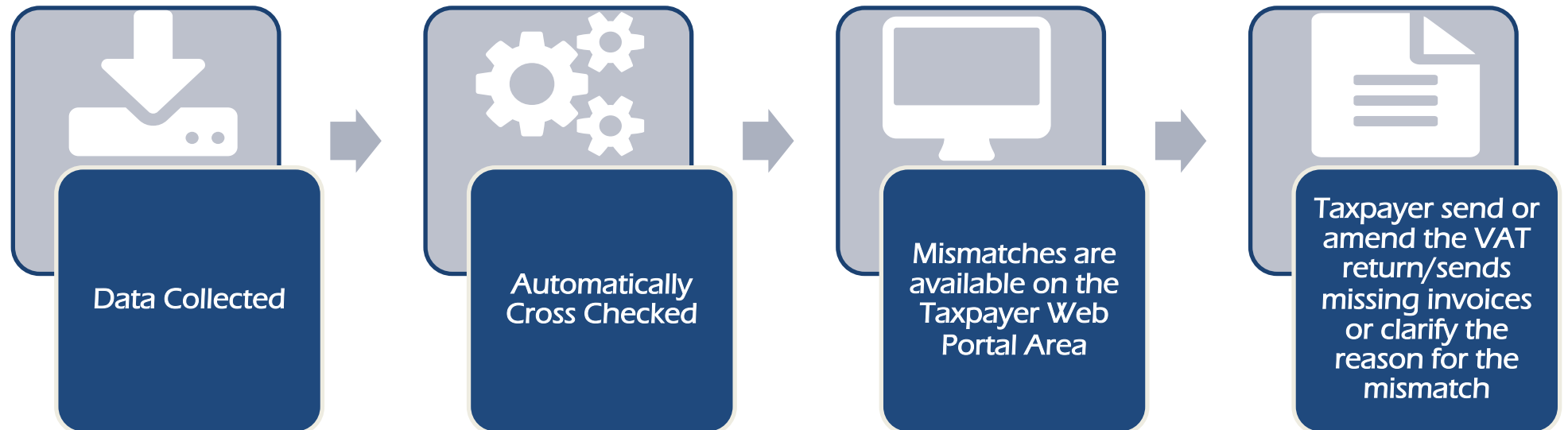
Allows a better and faster risk analysis and fraud detection

## mandatory fields

Tax ID number of the issuer	Invoice or document number	Date of issue	Document type	Tax ID number of the buyer
Taxable amount of the service or goods	Applicable VAT rates	Justification for VAT exemption/non-application of the tax, if applicable	Paid VAT amount	The expression 'VAT - cash basis', if applicable
Software certificate number	Source Document ID	Reference (Rectified Document ID)	Tax Country Region	Unique Document Code



# How is the Tax Authority using the collected data to improve the functioning of the tax system?



Increase  
Compliance

Data quality  
and  
completeness

Final  
Consumers  
are the key to  
Cash Retail  
Business  
Control

### key success factors

Keep it  
simple

Interoperability  
of data with  
other TA and  
Government  
Bodies

Speeds up the  
Digital  
Transformation  
Process of the  
eco-system

Enhances  
the use of  
new  
technologies

## final consumer – tax id number

**Tax Benefit**

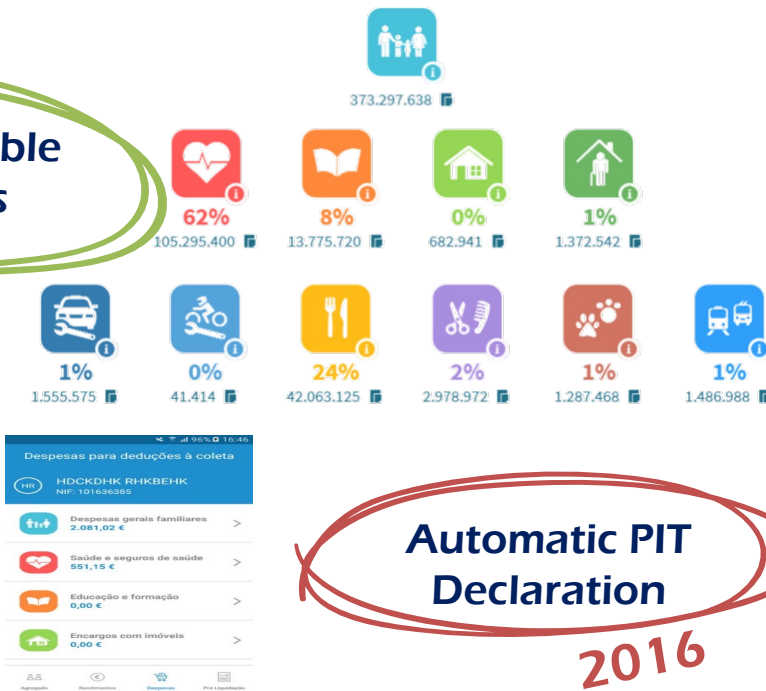
- 15% of supported VAT in  
6 Activity Sectors

2013



**PIT Deductible  
expenses**

2015



**Automatic PIT  
Declaration**

2016

**Lucky Invoice Lottery**

2014



- 1 weekly draw - Treasury Bonds € 35.000
- 2 semi-annual draws - 3 x Treasury Bonds € 50.000

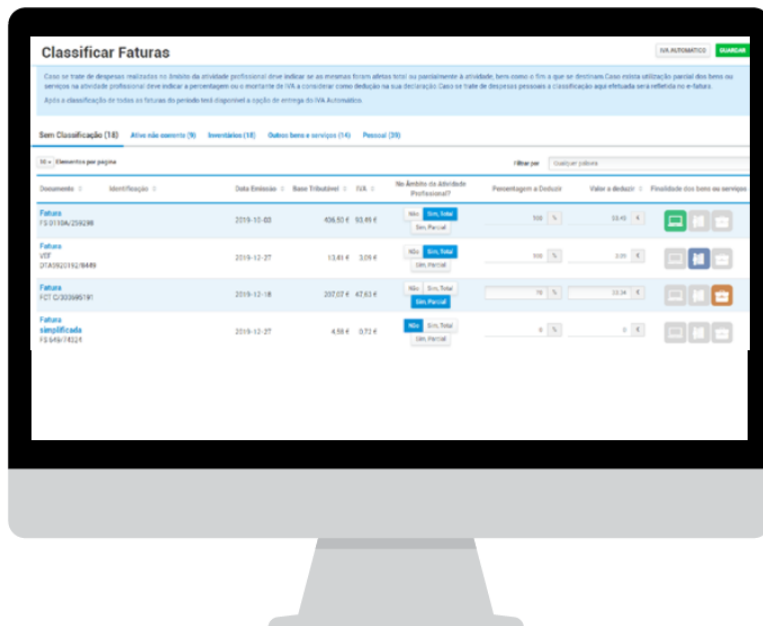
**Prefilling VAT  
Return**

2020



aedAF

# «IVA Automático +»: Prefilling the VAT Return



- All VAT returns are submitted electronically, some taxpayers (**basically individuals without organized accounting**) can resort to this functionality that prefills their return statement
- This prefilling resorts to **output VAT and deductible VAT** values obtained from the data contained in invoices issued on the Tax Administration web portal and also on the data submitted under the obligation to provide information on issued invoices (“e-Fatura”)
- In order to correctly assess deductible VAT the taxpayer must classify invoices in which he appears as the acquirer

1. Consumption taxation has been **gradually gaining a reinforced weight** in the Portuguese Tax Structure.
2. The **VAT GAP has gradually been decreasing in Portugal**, in great part due to the **increased control of the tax system ensured through a technological reform of the management of invoice's information** through the e-Fatura System.
3. The gradual development of the e-Fatura system has acted as a **trigger for innovation in the services rendered to the taxpayer**, namely on what regards the pre-filling of the PIT Tax Return (currently covering over 3 million taxpayers, in a totally automated pre-filling of their complete Tax Returns) and the VAT Tax Return (currently, only for taxpayers with simple tax situations).

# THE FUTURE

(Where Portugal is heading, or may be heading, in the near future)

# TAXATION OF THE DIGITAL ECONOMY

## **TAXATION OF CRYPTO**

The Portuguese Government proposes to start **taxing short-term** (held for less than 1 year) **sale of crypto** under the **capital gains tax**, levied at an autonomous rate of 28%.

In turn, operations related to the **issuance of crypto**, including mining, or the validation of crypto transactions through consensus mechanisms, will now be **assimilated to business income** and consequently be taxed at **progressive rates** ranging between 14% and 53%. The applicable tax base will depend on the chosen taxation regime.

Lastly, fees and commissions charged for intermediation by cryptoservice providers will be subject to a 4% Stamp Duty to be borne by the client.



## THE (UPCOMING) FUTURE – OTHER INITIATIVES

- Portugal is following closely the discussions on Pillars I and II at OECD level, and at EU level. **If negotiations fail, the Digital Services Tax or the Significant Digital Presence test may possibly constitute viable alternatives to explore.**
- **Several relevant recent EU directives and directive proposals** to better face the new world of the digital economy:
  - DAC7 (to be transposed until end of first semester 2023);
  - DAC8 (proposal expected on november 16th 2022);
  - New EU Proposal on Digital VAT (expected for november 16th 2022);
  - Proposal for a COUNCIL DIRECTIVE on ensuring a global minimum level of taxation for multinational groups in the Union COM(2021) 823 final;
  - Proposal for a COUNCIL DIRECTIVE laying down rules to prevent the misuse of shell entities for tax purposes and amending Directive 2011/16/EU, COM(2021) 565 final;
  - BEFIT Proposal.

- How to deal with the new Nomad workers reality, avoiding a race to the bottom in the PIT tax rates and tax base determination as the one that occurred during the last decades in the CIT realm?  
**Need for international coordination on this matter.**

# INCENTIVES FOR ECONOMIC GROWTH

## **TAX LOSSES CARRIED FORWARD INDEFINITELY**

- The Government proposes to allow tax losses to be carried forward indefinitely (previously there was a 5-year limit for SME and a 12-year limit for non-SME). However, tax losses can now only be offset against 65% of each year's tax profit (the previous limit was 70%).

## **TAX RELIEF FOR SME AND SMALL MID CAP**

- The first € 50.000 of taxable profit generated by SME and Small Mid Cap will now be taxed at the lower 17% CIT rate (previously the same rate only applied to the first € 25.000 of taxable profit).

## **CAPITALIZATION TAX INCENTIVE**

- The Government proposes to revoke the capitalization incentive regimes currently in force and exchange them for a 10-year annual tax deduction of 4,5% (5% if SME) of the company's equity net increase (capped at 30% EBITDA or € 2 million, whichever is highest).

# SOCIAL MEASURES

### **SALARY INCREASE ALLOWANCE**

- The Portuguese Government proposed to allow for an increased tax deduction of 150% on relevant salary increases (more than 5,1%) determined by a labor collective bargaining instrument, provided that certain requirements are met, up to a cap of 4% the monthly minimum wage.

### **YOUNG WORKERS TAX RELIEF 3.0**

- The Portuguese Government proposes to further enhance the exemption threshold of its Young Workers Tax Relief Program (which provides for a partial tax exemption of the first years of income after graduation).

### **TAX RELIEF ON OVERTIME**

- The Portuguese Government proposes to decrease taxation on overtime in two ways:
  1. A withholding tax exemption on the first 50 hours of over time when paid to non-resident workers;
  2. A 50% reduction on the withholding tax applicable to overtime past the 101 hour mark.

# OVERALL TAX SYSTEM DESIGN

SOME QUESTIONS THAT WILL REMAIN FLOATING FOR ANSWER IN THE FUTURE:

- 1. WILL PORTUGAL MAINTAIN ITS FOCUS ON INDIRECT TAXATION?**
  - IT HAS GROWTH ADVANTAGES, HOWEVER, IT REQUIRES A STRONGER FOCUS ON THE SOCIAL ACTION OF THE STATE TO DEAL WITH ITS REGRESSIVE CHARACTERISTICS.
- 2. WILL PORTUGAL MAKE BETTER USE OF PROPERTY TAXATION (ANNUAL WEALTH TAXATION, ETC.) POSSIBILITIES TO WIDEN THE TAX BASE AND DIMINISH THE CURRENT STRONG WEALTH INEQUALITIES THAT IT IS FACING?**
- 3. WHAT ABOUT THE NEW EUROPEAN PROPOSALS IN THE TAX FIELD? WILL THEY SEE THE LIGHT OF THE DAY?**
- 4. LASTLY, IN WHICH DIRECTION WILL TECHNOLOGY CONTINUE TO SHAPE TAX LAW IN PORTUGAL, IN EUROPE AND AT GLOBAL LEVEL?**



**THANK YOU VERY MUCH FOR YOUR ATTENTION!**