



International Tax

Brazil Tax Alert

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Tax authorities issue guidance on transition tax regime and CFC election procedures

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Brazil's tax authorities have issued anticipated guidance on the procedures for making elections relating to the repeal of the transition tax regime and to the new controlled foreign company (CFC) rules set out in Law 12,973/14.

Law 12,973/14, which was published in Brazil's official gazette on 14 May 2014, converted a previous provisional measure (PM 627) into law. PM 627 introduced measures to update the tax rules to account for differences with Brazilian GAAP and for the transition to IFRS, and made changes to the CFC rules, among other items. (The tax alert dated 15 May 2014 summarizes these measures.)

Normative Ruling 1,469/14, published on 29 May 2014, provides that taxpayers wishing to early adopt the changes described in Law 12,973/14 as from 1 January 2014 must indicate they are making the election on the Federal Fiscal Debts and Credits Return (DCTF). The DCTF is a monthly tax return in which taxpayers must disclose information relating to all federal tax debts and credits. The new normative ruling states that the relevant election must be made on the May DCTF, which will be due on the 15th business day of July. New companies that commenced activities in 2014 as result of mergers or spin-offs generally must make the election on the DCTF related to the first month of the company's activities; however, a company that commenced activities between January and April 2014 must make the election on the May DCTF.

Taxpayers wishing to early adopt both the new CFC rules and the abolition of the transition tax regime will be required to make two separate elections.

Both elections are irrevocable and will not be valid if the taxpayer does not comply with the DCTF filing deadline.

The impact of early adoption must be evaluated on a case-by-case basis, and may differ depending on the taxpayer's tax attributes.

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