



# memorandum to clients

03.09.2016

## **STF acknowledges the existence of General Repercussion of the discussion concerning the limits of res judicata in tax matters**

In 3/9/2016, the Brazilian Supreme Federal Court (STF) has recognized the General Repercussion of the controversy related to the limits of res judicata in tax matters, after a trial, in concentrated constitutional control, by the Supreme Court which has declared the constitutionality of Social Contribution on Net Income (“CSLL”), contribution that has previously considered unconstitutional, through abstract constitutional control, in res judicata. The theme will be represented by the Extraordinary Appeal (RE) n. 949.297 hold by the rapporteur Justice Edson Fachin.

Until then, Justices Edson Fachin, Teori Zavascki, Roberto Barroso and Carmen Lucia voted in favour of the general repercussion of the theme, thus fulfilling the minimum required quorum established by article 102, paragraph 3 of the Federal Constitution<sup>1</sup>. We enhance that Justices Celso de Mello, Marco Aurélio, Gilmar Mendes, Ricardo Lewandowski, Dias Toffoli, Luiz Fux and Rosa Weber can still manifest about the general repercussion on the theme until 3/24/2016, when the vote in the virtual plenary shall be automatically closed.

Furthermore, Justice Edson Fachin contended in his vow that *“it seems clear the general impact of this theme of eminently constitutional nature, as it is concerned the very architecture of the constitutional control system designed for the embedded relationship between abstract and concrete modalities of monitoring the constitutionality of normative acts.”* The Justice also highlighted the relevance of the theme considering the impact of the decision on the principle of legal certainty, public finances and, in social issues, under the prism of horizontal tax equity.

In view of the above, the offices of **Souza, Schneider, Pugliese & Sztokfisz Advogados** are available to render further clarifications regarding these matters.

---

<sup>1</sup> Article 102 (...) § 3 The extraordinary appeal the applicant shall demonstrate the impact of constitutional questions discussed in the case, under the law, in order that the Court examine the admission of the appeal, and may only refuse it the manifestation of two thirds of its members.



# ’ memorandum to clients

03.09.2016

## Team responsible for preparing Memorandum to Clients:

**Igor Nascimento de Souza** (igor.souza@souzaschneider.com.br)

**Eduardo Pugliese Pincelli** (eduardo.pugliese@souzaschneider.com.br)

**Flavio Eduardo Carvalho** (flavio.carvalho@souzaschneider.com.br)

**Fernanda Donnabella Camano de Souza** (fernanda.camano@souzaschneider.com.br)

’

r. Cincinato Braga 340 , 9º andar  
São Paulo , SP , Brasil , 01333-010  
tel +55 11 3201 7550 , fax +55 11 3201 7558

Brasília Shopping , SCN quadra 5  
bloco A , Torre Sul , 14º andar , sala 1406  
Brasília , DF , Brasil , 70715-900  
tel +55 61 3251 9403 , fax +55 61 3251 9429

souzaschneider.com.br

The content hereof belongs to Souza, Schneider, Pugliese e Sztokfisz Advogados law firm and is destined to the firm's clients. Total or partial reproduction without prior authorization is forbidden. In case you no longer wish to receive this memorandum or wish to include another person to receive it, please send an e-mail with such request to contato@souzaschneider.com.br.