

MEMORANDUM TO CLIENTS

04.23.2015

STF (Brazilian Federal Supreme Court) acknowledges the existence of a General Repercussion about the incidence of income tax over interest on arrears deriving from labor severance funds

On 04.16.2015, the Federal Supreme Court (STF) recognized the existence of a General Repercussion of the discussion on the incidence (or non incidence) of income tax over interest on arrears perceived by individuals as a result of termination of employment contracts. The rapporteur of the extraordinary appeal, representative of the controversy, is Justice Dias Toffoli.

Currently, there are precedents in the Superior Court of Justice (STJ) that stand for the incidence of Individual Income Tax (IRPF) over interest on arrears, in order to consider them as a taxable income depending on the nature of the funds over which are levied. That is, the tax shall not be levied over interest on arrears only in the event the major funding is exempted from them, because the current understanding of STJ is that interest on arrears would not be independent from the major funding.

Therefore, having this new legal proceeding to be tried by the Supreme Court, the issue will be considered in other ways, especially from the perspective of the constitutional concept of income, which can lead to diametrically opposite conclusions than those reached by the Superior Court of Justice.

Given these considerations and being the issue of the incidence of income tax over interest on arrears undefined, we understand that taxpayers who have such revenues should carefully assess the financial impact of the thesis for filing lawsuits.

We remain at your disposal to clarify any doubts that may arise.

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