

MEMORANDUM TO CLIENTS

CARF – ADDITIONAL ARGUMENTS TO VOLUNTARY APPEAL Date **05/21/2013**

The 2nd Panel of the 2nd Chamber of the 1st Section of the Administrative Council of Tax Appeals - CARF, in a session held last Wednesday, considered the additional arguments to a voluntary appeal not filed within required the 30-day term, as essential documentation for the examination and analysis of the administrative dispute.

When hearing the Voluntary Appeal filed by the taxpayer, the Panel equated the principle of material truth with the rules of the administrative proceeding. It would then examine such arguments if the essence of the assessment is challenged in the objection and in the voluntary appeal, that is, the alleged illegality of the assessment and the mistakes made by the auditors. Therefore, the arguments filed on an “untimely” basis would not be time barred, thus, they would be considered as essential documentation for the solution of the case – pursuant to the position of the Superior Chamber, meaning the material truth then prevails.

Furthermore, the additional argument was not considered a new appeal but, instead, necessary documentation for the ascertainment of the actual truth. To this extent, with this precedent it is important to show, when submitting additional arguments to the Voluntary Appeal, that this is essential documentation for the examination and analysis of the case, and not a new appeal.

Should you have any further questions on the above matter, please feel free to contact us.

Responsible Council:

Igor Nascimento de Souza (igor@ssplaw.com.br)

Phone: 55 11 3201-7553

The purpose of this memo, exclusively prepared for the clients of this Firm, is to inform them on the major legal changes and news. Should there be any questions, our attorneys will be fully available for any further clarification.

Flavio Eduardo Carvalho (flavio@ssplaw.com.br)

Phone: 55 61 3252-6155

Viviane Faulhaber Dutra (viviane@ssplaw.com.br)

Phone: 55 61 3252-9402

The purpose of this memo, exclusively prepared for the clients of this Firm, is to inform them on the major legal changes and news. Should there be any questions, our attorneys will be fully available for any further clarification.