



# memorandum to clients

12.03.2015

## Tax Information Exchange Agreement between Brazil and Switzerland

On Nov. 23, 2015, Brazil entered into a Tax Information Exchange Agreement (“TIEA”) with Switzerland, which provides for the sharing of tax and financial information between the authorities of both countries.

The TIEA is aimed at the exchange of information related to Federal taxes in Brazil and to Federal, Cantonal, and Communal taxes on income, capital, inheritance, and gifts in Switzerland. The exchange of information is contingent upon the tax authorities sending a specific request, there being no need, however, for a judicial authorization to make the data available. Furthermore, the information to be exchanged is limited to the fiscal year starting on January 1 of the year following that in which the treaty comes into force.

According to the TIEA, Brazil and Switzerland are to ensure that their respective authorities can obtain and provide information held by banks and financial institutions, as well as by representatives and trustees. Likewise, the authorities must be capable of obtaining and sharing information relative to the legal and effective ownership of trusts, foundations, and other entities<sup>1</sup>. It is worth pointing out that the exchanged information is to be treated as confidential by both parties.

In order to come into force, the TIEA must be approved by the relevant powers of each State. With specific regard to Brazil, the National Congress must issue a Legislative Decree approving the treaty’s text, followed by a Decree of the Executive Branch enacting it, validating its incorporation to the Brazilian legal system.

Still in this regard, it should be highlighted that currently in force are the TIEA and the Agreement for the Improvement of International Tax Compliance and Implementation of the Foreign Account Tax Compliance Act– FATCA (Intergovernmental Agreement – “IGA”), both entered into between Brazil and the USA, which seek the mutual assistance for the exchange of information for tax purposes and the automatic sharing of information on bank accounts of nationals or residents of Brazil and the USA between the Brazilian and US tax authorities.

In addition, Brazil has already executed TIEAs with the jurisdictions of Bermuda, the Cayman Islands, Jamaica, Jersey, the UK, and Uruguay, whose effectiveness in Brazil still depends on the enactment by the Legislative and Executive Branches.

Specifically concerning the automatic exchange of information, on Nov. 3, 2011, Brazil entered into a Multilateral Convention on the Mutual Administrative Assistance in Tax Matters, whose approval by the Legislative Branch is pending, and agreed to adopt the first automatic exchange of tax information, pursuant to the mentioned document, by 2018.

Thus, the recent TIEA executed with Switzerland represents yet another action of Brazil so as to be included in the global political movement of financial and tax information integration, in accordance with the commitments assumed with international discussion forum and summits.

<sup>1</sup> The TIEA expressly provides that, in relation to trusts, the information is to refer to settlors, trustees, protectors, and to beneficiaries; and in case of foundations, to founders, members of the foundation’s board, and to beneficiaries.



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