

memorandum to clients

12.28.2017

Parameters for the assignment of taxpayers to the differentiated and special economic-tax monitoring for 2018 – Rulings no. 3,311 and 3,312

Rulings no. 3,311 and 3,312, of the Brazilian Federal Revenue (“RFB”), published on December 22nd and 26th, 2017, respectively, establish the parameters for the assignment of taxpayers, individual and legal entities, in 2018, to the “differentiated monitoring” and “special monitoring”, which consists, among others, in an individualized monitoring of the collection of taxes administered by the RFB.

Concerning legal entities, the parameters listed by the Ruling no. 3,311 are greater in comparison to those established in previous years. In 2018, the following legal entities will be subject to the differentiated monitoring:

- (i) which annual gross revenue informed in the Tax Accounting Bookkeeping (“ECF”) of 2016 was greater than BRL 200,000,000.00 (two hundred million BRL);
- (ii) which debts informed in the Federal Tax Credits and Debts Statement (“DCTF”) of 2016 were greater than BRL 25,000,000.00 (twenty-five million BRL);
- (iii) which payroll informed in the Severance Indemnity Fund for Employees Collection Form and Social Security Information (“GFIP”) of 2016 was greater than BRL 65,000,000.00 (sixty-five million BRL); or
- (iv) which debts informed in the GFIP in 2016 were greater than BRL 25,000,000.00 (twenty-five million BRL).

Notwithstanding, the following legal entities will be subject to the special monitoring:

- (i) which gross revenue informed in the ECF of 2016 was greater than BRL 1,800,000,000.00 (one billion and eight hundred million BRL);
- (ii) which debts informed in the DCTF of 2016 were greater than BRL 200,000,000.00 (two hundred million BRL);
- (iii) which payroll informed in the GFIP of 2016 was greater than BRL 200,000,000.00 (two hundred million BRL); or
- (iv) which debts informed in the GFIP of 2016 were greater than BRL 200,000,000.00 (two hundred million BRL).

The legal entities subject to the differentiated monitoring in 2018 should be communicated by RFB until January 31st. However, legal entities that complies the requirements above are subject to the monitoring irrespective of the communication.



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Regarding individual taxpayers, the parameters of Ruling no. 3,312/2017 are lower in comparison to previous years. In thesis, this may lead more taxpayers to be subject to differentiated monitoring in 2018. As provided by this Ruling, the following individuals will be subject to the differentiated monitoring in 2018:

- (i) which revenues informed in the Individual Income Tax Return (“DIRPF”) of 2016 were greater than BRL 10,000,000.00 (ten million BRL);
- (ii) which assets and rights informed in the DIRPF of 2016 were greater than BRL 20,000,000.00 (twenty million BRL); or
- (iii) which operations in variable-income informed in the Withholding Income Tax Return (“DIRF”) of 2016 were greater than BRL 15,000,000.00 (fifteen million BRL).

Furthermore, this Ruling also applies the special monitoring for individuals (which used to apply only to legal entities):

- (i) which revenues informed in the DIRPF of 2016 were greater than BRL 200,000,000.00 (two hundred million BRL);
- (ii) which assets and rights informed in the DIRPF of 2016 were greater than BRL 500,000,000.00 (five hundred million BRL); or
- (iii) whose operations in variable-income informed in the DIRF of 2016 were greater than BRL 100,000,000.00 (one hundred million BRL).

The Ruling no. 3,312/2017 also provides that the RFB is allowed to limit the monitoring of individuals due to their profession, economic profile or contributive capacity as taxpayer. Schneider, Pugliese team is at total disposal for any further clarification concerning this matter.

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