

Dear Readers:

The Tax Bulletin aims to update our clients and other interested parties on the major issues being discussed and decided within the Judiciary, Legislative and Executive level.

In this 103th edition, we address 06 different issues related to Jurisprudence, Regulations and Consultation Solutions.

To directly access each text, click

Regulations and Consultation Solutions

Normative Instruction RFB No. 1.787/18 - DCTFWeb

PGFN Ordinance No. 32/2018 - Accord and satisfaction of real properties - Termination of tax debits

PGFN Ordinance No. 33/2018 - Procedures relating to the registration as an overdue tax liability

Solution of COSIT Inquiry No. 544/2017 - No levy of PIS/Pasep - Import and Cofins-Import - Transaction between foreign legal entities for consideration in services rendered in Brazil

Jurisprudence

STJ - Right to renew the FGTS tax regularity certificate issued

STJ - Initial instrument of inflation adjustment for tax refund

Schneider, Pugliese, Sztokfisz, Figueiredo e Carvalho Advogados law firm is at the disposal of our clients to clarify any questions about the issues addressed in this publication.
We wish you a good reading!

Regulations and Consultation Solutions

Normative Instruction RFB No. 1.787/18 - DCTFWeb

On 2.8.2018, the Normative Instruction No. 1.787, issued by the Brazilian Federal Revenue Service, was published instituting the electronic modality for the Federal Tax Debits and Credits Statement (“DCT-FWeb”). The act regulates the delivery of such statement by means of the Public System of Digital Book-keeping, SPED, by using a digital certificate. The legal entities in the taxable income shall be required to transmit the DCTFWeb as of July 2018; further companies, as of January 2019.

PGFN Ordinance No. 32/2018 - Accord and satisfaction of real properties - Termination of tax debits

On 2.9.2018, the PGFN (Office for the General Counsel of the National Treasury) Ordinance No. 32/2018 was published regulating the accord and satisfaction procedure for real properties for purposes of terminating debits of tax nature registered as an overdue federal tax liability.

PGFN Ordinance No. 33/2018 - Procedures relating to the registration as an overdue tax liability

On 2.9.2018, the PGFN Ordinance No. 33/2018 was published regulating PGFN procedures for registration of tax debits as an overdue federal tax liability; the procedure of the administrative request for review of registered debits; the early offering for assets and rights to pledge; and the selecting filing of tax foreclosures.

Solution of COSIT Inquiry No. 544/2017 - No levy of PIS/Pasep - Import and Cofins-Import - Transaction between foreign legal entities for consideration in services rendered in Brazil

On 12.19.2017, the Solution of Inquiry No. 544, issued by the General Taxation Office (“COSIT”), was published, providing for the non-levy of PIS/Cofins-Import on the payments made overseas by any foreign legal entity to another foreign legal entity as a consideration for the consulting services rendered to the legal entity holding tax residence in Brazil.

COSIT understood that, since the payment is made abroad by a legal entity that is not a taxpayer in Brazil to another legal entity that is not a taxpayer in Brazil either, there is nothing to discuss about payment, credit, delivery, employment or shipment of amounts abroad, capable of entailing the levy of the contributions.

Jurisprudence

STJ - Right to renew the FGTS tax regularity certificate issued

On 01/29/2018, the Justice Humberto Martins, vice-president of STJ (Superior Court of Justice) rendered the ruling, in the Provisional Relief (“TP”) No. 1.256/DF in order to determine the issuance of FGTS (Guarantee Fund for the Length of Service) Tax Regularity Certificate from companies which debits are secured by any Performance Bond and judicial deposits.

The Justice acknowledged the risking existence of irreparable damages or damages that are hard to redress, since the impossibility of renewing tax regularity certificates impedes the participation in bidding processes, as well as removed the enforcement of Precedents 634 and 635/STF to the case in concern.

STJ - Initial instrument of inflation adjustment for tax refund

On 02/22/2018, the 1st Section of STJ concluded the trial on the Divergence Motion in Special Appeal (“EREsp”) No. 1.461.607/SC in order to decide that the initial instrument of inflation adjustment in the events or claim for tax refund is the 361st day as of the filing of such claim.

The Section, in the majority thereof, understood that the inflation adjustment may not levy upon since the first day of filing by the taxpayer of the claim for refund, but only after elapsing 360 days as of that date. The thesis was prepared based on article 24 of Law No. 11.457/2007, which grants a deadline of a little less than one year for the Brazilian Federal Revenue Service to review the administrative requests filed by the taxpayers.

The Schneider, Pugliese, Sztokfisz, Figueiredo e Carvalho Advogados Team (contato@schneiderpugliese.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