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Global Tax Alert

News from EY Americas Tax

Brazilian National Attorney General regulates recently enacted conflict resolution system

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Brazil's National Attorney General's Office (PGFN) published Normative No. 11.956/2019, and Notice No. 1/2019, regulating the eligibility and application requirements for the conflict resolution system. Provisional Measure No. 899/2019 established the conflict resolution system, which is intended to reduce controversy between Brazilian taxpayers and federal tax authorities.

Normative No. 11.956/2019 on conflict resolution system

The new conflict resolution system allows the taxpayer and tax authorities to negotiate the amount of the taxpayer's tax liability. A tax liability may qualify for the conflict resolution system, regardless of whether the collection of the liability is managed by the PGFN. Normative No. 11.956/2019 sets forth when a tax liability that is part of litigation involving the PGFN may be negotiated as follows:

What can be negotiated with discount	What can be negotiated without discount	What cannot be negotiated	Key benefits to be obtained with the negotiation
Federal tax liabilities deemed as non-recoverable or hard to be recovered by the Government	Other federal payable taxes as long as certain requirements are met	Severance fund debts; taxes under the simple tax regime (Simples Nacional), "qualified" penalties (e.g., when there is fraud), criminal penalties	Up to 50% general discount on the total amount of the federal tax liability Payment in up to 84 monthly installments Grace period of up to 180 days for the first installment if the taxpayer is under judicial reorganization

Taxpayers with an overall outstanding federal tax debt of up to BRL15 million are entitled to a simplified negotiation method through the conflict resolution system, while an outstanding tax debt of more than BRL15 million would require individual negotiations between the taxpayer and the PGFN.

Notice No. 1/2019 on procedures for first-round negotiations

On 4 December 2019, the PGFN issued a public notice that detailed the procedure for the first round of negotiations for taxpayers with overall tax debts below BRL15 million. The notice addresses discounts and the number of installments to which specific taxpayers would be entitled (for example, those with outstanding litigation for longer than 15 years), confirming the average terms set out in Normative No. 11.956/2019.

Multinationals with a presence in Brazil also should be aware that, based on what has been announced by the PGFN, the negotiation approach to tax conflict resolution seems to be an alternative approach to amnesty programs. According to the PGFN website, the Government believes amnesty programs negatively impacted the tax revenue while benefitting taxpayers with the financial capacity to regularly pay their taxes.

Taxpayers in Brazil should evaluate their outstanding federal tax liabilities that are currently under litigation with the PGFN and determine whether they might benefit from the conflict resolution system.

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