



An update on tax planning for Brazilian families: challenges and opportunities.

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- Brazilians more and more global.
- Exchange of information
- BEPS
- CFC rules for individuals - What may come next
Provisional Measure 627?
- Planning for inevitabilities: death and tax.
- Trusts, funds and foundations.
- Emigration plans

Brazilians more and more global.



Escolha o país de seu interesse!



Exchange of information



- Base erosion and profit shifting (BEPS) refers to tax planning strategies that exploit gaps in the architecture of the international tax system to artificially shift profits to places where there is little or no economic activity or taxation.

- Address the tax challenges of the digital economy
- Neutralize the effects of hybrid mismatch arrangements which generate arbitrage opportunities
- Strengthen CFC rules
- Limit base erosion via interest deductions and other financial payments
- Counter harmful tax practices more effectively, taking into account transparency and substance

- Prevent treaty abuse
- Prevent the artificial avoidance of PE status
- Assure that transfer pricing outcomes are in line with value creation.
- Require taxpayers to disclose their aggressive tax planning arrangements
- Re-examine transfer pricing documentation
- Make dispute resolution mechanisms more effective
- Develop a multilateral instrument

CFC rules for individuals - *MP 627* has gone, but what may come next?



CFC rules for individuals - *MP 627 has gone, but what may come next?*



- Tax transparency.
- End of tax deferral for investments in offshore companies whole owned (or controlled) by taxpayer and his family.
- Tax auditing on offshore companies.
- Full disclosure by taxpayers of investments, structures and tax planning strategies.

CFC rules for individuals - *MP 627 has gone, but what may come next?*



- Speculations:
 - Tax and criminal amnesty for unofficial money.
 - Taxation of patrimony or higher income tax for wealthy individuals.
 - Disregards of any international structure.
 - Taxation of individuals on incurred basis instead of cash basis as it is today.

Planning for inevitabilities: death ...



Planning for inevitabilities: death ... and TAX



- Sophisticated tax planning is somehow new for many wealthy families in Brazil.
- The change of parameters from form to substance in tax planning is recent in Brazil.
- Estate Taxes rates in Brazil are low when compared with other countries.
- With the exemption on distribution of dividends, all tax plan begins with a holding company.

Planning for inevitabilities: death and tax

- Multijurisdictional families are new challenges.
- Exchange of information in a transparent world cause the collapse of old structures.
- Emigration of Brazilian Families predominantly to USA (around 70% of Brazilians living abroad).
- A new generation in Brazil with a global view of business and opportunities doesn't accept the chaotic management of family assets by previous generations.

Planning for inevitabilities: death and tax



- Now Brazilian families know that planning is necessary and they are inventive to see alternatives.
- Brazilian families have many ideas, they plan a lot, but poorly implement their plans.
- Usually they trust more in a friend than in their advisors and repeat structures that don't fit to their specific situation and objectives.

Trusts, funds and foundations.

- Trusts are strange concepts for Brazilians: both for clients and for members of administrative or judicial courts.
- Brazil is not signatory of the Hague Convention on the Law applicable to Trusts and their recognition (1985).
- However a trust settled in a foreign jurisdiction may be accepted by Brazilian Courts if their provisions don't collide with domestic law.

Trusts, funds and foundations.

- If the purpose for a trust is to protect assets and distribute them to the next generation without observe the domestic law, the structure may be disregarded.
- “Corporate trusts” or transference of assets to a trust through a company can add additional arguments if the trust is challenged by beneficiaries or creditors.

Trusts, funds and foundations.

- Funds in Brazil is the typical instrument for families investments and domestically there are some interesting opportunities.
- Funds are subjected to special taxation treatment and provide deferral, exemption or reduce tax rate of the income derived from this type of investment.
- Funds in Brazil are condominiums with a control and regulation by Brazilian agencies.
- These facts can explain the preference of Brazilian families for funds.

Trusts, funds and foundations.

- Foundations are known in Brazil but limited to public or charitable purpose.
- Foundations has been seen as an alternative to Brazilian clients that were not comfortable with all the “trust” necessary to decide for a trust structure.

- Many wealthy families and some members of the upper middle class are unhappy with Brazil and want to emigrate.
- Brazilians are going global, but emigrate can be a tough project when combined with the restricted experience with planning to reduce taxes and wisely manager their assets.

What are the challenges and opportunities?

- Lack of experience of some Brazilian individuals with the global and transparent world.
- Cultural aversion to plans and to talk about inevitabilities.
- Crises in Brazil and the boom of emigration
- Huge differences between the tax and legal systems in Brazil and the rest of the world.
- And all the other aspects commented before.

Challenges are opportunities in disguise

Thank you!

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