

FATCA IGA FOCUS

U.S. - BRAZIL

U.S. Reporting of Accounts held by Brazilian Residents

Robert A. Ladislaw
Partner
rladislaw@solblum.com
(212) 267-7600

Solomon Blum Heymann LLP
40 Wall Street, 35th FL
New York, NY 10005

Brazil – Recent Developments

“Offshore Amnesty” enacted January 13, 2016:

- Ends October 31, 2016
- 15% tax plus 15% penalty

CFC rules modified



RS\$

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U.S - Brazil IGA Overview

Model 1A FATCA Intergovernmental Agreement

In force as of June 26, 2015

Brazilian bank secrecy laws were amended to comply with the IGA in 2014

Tax Information Exchange Agreement (“TIEA”) signed in 2007, in force as of 2013

The IGA is entered into pursuant to the TIEA

Accounts in banks located in the U.S. Territories are not covered by the IGA (i.e., U.S. Virgin Islands, Puerto Rico, etc.)

U.S. - Brazil IGA

Information Exchange Procedures

Competent Authority Agreement executed in February 2016 to establish the data exchange procedures under the IGA.

U.S banks will report Brazilian account information to the U.S. competent authority.

Brazilian banks must register for a GIIN, and will report to the Brazilian competent authority.

Reporting commences for accounts existing as of June 30, 2014.

Procedures are in place for substantial noncompliance by banks as well correction of minor errors.

U.S. – Brazil IGA

Reciprocal Information Exchange

The reciprocal information exchange is not equivalent.

Brazilian financial institutions are required to provide extensive information about accounts with U.S. owners:

- Conduct due diligence to find accounts with U.S. owners
- U.S. controlling owners of passive entities (“passive NFFE’s”)
- Account values
- Worldwide income, including interest, dividends, and gross proceeds

Information provided by U.S. financial institutions much less extensive

U.S. Financial Institutions Information to be Reported

Custodial accounts owned by Brazilian resident individuals or companies:

- Name, address, and CPF/CNPJ number of the Brazilian account owners
- Account numbers
- U.S. source income paid (but not gross proceeds)

Interest paid on deposit accounts (i.e., cash accounts) owned by Brazilian resident individuals

U.S. Financial Institutions Information Not Reported

No reporting of interest on deposit accounts owned by Brazilian companies

No reporting of beneficial ownership of passive foreign entities

No reporting of account values

U.S. – Brazil IGA

Other Comments

The definition of “United States” excludes the U.S. territories

The Common Reporting Standard (“CRS”) will generally be effective in 2018 for Brazil

The United States is not part of the CRS, nor are the U.S. territories

Other U.S. Transparency Initiatives

U.S. Treasury Department now requires disclosure of ownership of entities purchasing real estate for cash in certain areas: Over \$3 million in Manhattan and over \$1 million in Miami-Dade County, Florida. Temporary, expires August 27, 2016.

Various proposals to require states to collect beneficial ownership of companies when setting up an entity.