

**THE SCENARIO AFTER THE AMNESTY ON BRAZILIAN CAPITALS ABROAD –
A PERSPECTIVE FROM A COMPREHENSIVE WEALTH PLANNING LEGAL PRACTICE**

December 1st, 2016

A Comprehensive Wealth Planning Legal Practice.

Projects on optimization of legal organization of groups of companies; real estate properties; financial assets; and movable assets.

Legal Regularization – RERCT 2016.

Financial assets –

individual name, PICs, investment funds, trusts and private foundations;

Real estate properties in the US and Europe –

individual name, holding companies, trusts and private foundations; and

Groups of Brazilian companies –

individual name, holding companies, VC/PE funds, trusts and private foundations

Financial Assets – Individual Name, PICs, Investment Funds, Trusts and Private Foundations

Most individuals and companies have **not brought their capitals to Brazil yet**;
some of them have brought the capital in the extent necessary to pay the income tax and penalty;

Individuals and companies have formed **an acquisition cost for tax purposes** (at R\$2.65 exchange rate)

- few individuals have not a PIC and will set up one so as to avoid the individual income tax;
- most individuals have PICs, **but do not have a stock capital** corresponding to that acquisition cost;
those having an additional paid-in capital, a capital surplus etc. may think of properly setting up a new PIC and contributing the regularized one to its capital so as to avoid challenges by the tax authorities on the 15% individual income tax on capital gains on future capital reductions; and
- some of the individuals will liquidate trusts and private foundations or convert them into succession planning and/or wealth management legal structures;

Most individuals own capitals abroad which were generated in Brazil and, therefore, should be registered in their tax returns **in Brazilian Reais** and subject to income tax on exchange rate variation;

the **regularization of assets** does not seem to enable them to be considered as generated abroad;
the **inheritance of assets abroad**, however, seems to suffice for such purpose, if the origin can be proven;

Most individuals will need **to do succession planning or review the rules** in trusts and private foundations

Real Estate Properties in the US and Europe – Individual Name, Holding Companies, Trusts and Private Foundations

Most individuals already had the proper legal structure on the foreign side;
the legal structures or the real estate properties were only not declared for the Brazilian relevant authorities;
some of them, however, will need to review their foreign legal structure; and

Some individuals will need to do succession planning or review the rules in trusts and private foundations

Groups of Brazilian Companies – Individual Name, Holding Companies, VC/PE Funds, Trusts and Private Foundations

Most individuals and companies had not the proper legal structure for purposes of **corporate governance**; most of them will **simplify** their holding legal structures; negotiate and execute **shareholders agreements**;

Most companies will start doing **the CFC taxation** on corporate legal entities; and

Most individuals will need to do succession planning or review the rules in trusts and private foundations

Trends

Tax litigation regarding the income tax and penalty paid on “consumed amounts”

Individuals and companies that have paid income tax and penalty on relatively high values of “consumed amounts” are now considering filing **judicial law suits** to recover such tax and penalty amounts; and

Individuals and companies that have paid income tax and penalty only on the “photo” are expected to be **challenged** by the tax authorities.

Eventual CFC taxation on individuals

The amount of Brazilian capitals abroad has increased now to above R\$169 billion

Thank You