Brazil:
New regulations issued on transition tax regime, new CFC rules

The Brazilian tax authorities have issued two rulings (Normative Rulings (NR) No. 1,515/14 and No. 1,520/14) that provide additional guidance on Law 12,973/14, which repeals the transition tax (RTT) regime as from 1 January 2015 and introduces new controlled foreign company (CFC) rules. (For prior coverage, see Brazil Tax Alert, 15 May 2014 and Brazil Tax Alert, 3 June 2014.)

NR 1,515/14, published on 26 November 2014, contains 188 articles consolidating the corporate income tax computation rules that were addressed by a 1997 ruling (NR 93/1997), and revoking the 1997 ruling. It also revokes and replaces an NR issued earlier in 2014 (NR 1,493/14), which focused on the initial adoption of the measures in Law 12,973/14. NR 1,515/14 provides that where there are differences (positive or negative) between the accounting GAAP assets reported on the digital accounting bookkeeping return and the tax GAAP assets reported on the transition tax regime control return and the “sub-accounts” (which are used to track certain tax figures) are properly maintained, tax neutrality should prevail. Clarification is provided on the mechanisms that apply to the corporate taxable income computation for accounting for such differences to ensure tax neutrality.

NR 1,520/14, published on 8 December 2014, provides further guidance on the rules governing the tax treatment of CFCs and includes new procedures for electronically reporting information regarding the taxpayer’s CFC entities under the corporate tax income electronic reporting regime. The NR includes some clarifications and further details on the mechanics that apply for CFCs and the required disclosures of CFC attributes on certain schedules, including:

1. Active and passive income;
2. Income from abroad;
3. Consolidation information;
4. Loss carryforwards;
5. Corporate structure; and
6. Foreign tax information.

NR 1,520/2014 also revokes certain articles of NR 213/2002, which addresses the current tax treatment of CFCs.

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