

Brazil**Deadline to disclose the Ultimate Beneficial Owner to the Brazilian Federal Revenue Service**

In 2016, in line with the international concern to prevent tax evasion, money laundering, terrorism and corruption, the Brazilian Federal Revenue Service (RFB) took a crucial step towards identifying the ultimate beneficial owners (UBO) of domestic and foreign entities registered with the Brazilian Corporate Taxpayers' Register (CNPJ). The deadline for disclosing the identity of the UBO of all domestic and foreign entities already registered with CNPJ expires on 31 December 2018. New entities must disclose their UBO within 90 days of its registration with the RFB.

Normative Instruction 1634/2016, issued by the RFB (IN 1634/2016) defines UBO as the natural person: (i) who, ultimately, directly or indirectly, owns, controls or significantly influences an entity; or (ii) on whose behalf a transaction is conducted. As per IN 1634/2016, such significant influence occurs when the natural person, directly or indirectly: (i) holds more than 25% of the entity's corporate capital; or (ii) exercises or holds the preponderant voting power in the entity's resolutions and elects the majority of the entity's managers.

The list of entities that must disclose their UBO is long, and it includes: (i) companies in Brazil; (ii) investment clubs and funds; (iii) non-resident entities that hold certain assets and/or rights in Brazil (such as, but not limited to, real properties, vehicles, vessels, aircrafts, bank accounts, investments in the financial and capital markets, equity interests, etc.) or that carry out certain transactions in Brazil (leasing, chartering of vessels, equipment rental, and the import of goods for capital contribution in Brazilian companies); (iv) foreign banking institutions carrying out transactions of purchase and sale of foreign currency with banks in Brazil, receiving and delivering Brazilian currency in cash; and (v) silent partnerships. IN 1634/2016 also provides a long list of entities that are exempt from identifying their UBO, such as, but not limited to: (i) publicly held companies in Brazil or in jurisdictions where the public disclosure of relevant shareholding structures is mandatory do not have to provide information about their UBO, except if such jurisdictions qualify as tax havens or are subject to a privileged tax regime; (ii) multilateral organisations; (iii) central banks; (iv) sovereign funds; (v) non-profit organisations, pension funds and investment vehicles, provided that certain requirements are met, etc.

It is important to bear in mind that the procedure for identifying UBO can be long and bureaucratic. In addition to disclosing the complete UBO's identity, entities subject to IN 1634/2016 must provide copies of its corporate documents, and of all companies within its group up to the UBO level, as well as a copy of the ID or passport of the UBO(s). All documents issued abroad must be notarised and apostilled (or legalised, depending on the country where the document was issued), translated into Portuguese by a sworn translator in Brazil and registered with the Deeds and Documents Office before its presentation to the RFB.

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Failure to comply with the obligation to inform and present documents to the RFB may result in the suspension of the CNPJ registration, and therefore the CNPJ's holder will be forbidden to negotiate with banks, including the handling of bank accounts, making financial investments and obtaining loans.