



## Brazil Issues New Guidance on Reportable Transactions Involving Nonresidents

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On February 27, 2013, the Brazilian tax authority, Secretaria da Receita Federal do Brasil (the "Tax Authority"), published guidance regarding the reporting obligations for certain transactions between Brazilian residents and non-residents. The guidance, Normative Instruction No. 1.336/2013 ("IN 1.336"), modifies the deadlines for reporting these transactions and the penalties for non-compliance.

### Prior Law

In June 2012, the Tax Authority introduced Normative Instruction 1.277/2012 ("IN 1.277"), which imposed reporting obligations on Brazilian residents and legal entities who entered into transactions with non-residents (i) to provide or receive services; (ii) to dispose of or acquire intangibles; or (iii) where the transaction may change the net equity or wealth of the Brazilian resident.

The penalty for filing late or not at all was BRL 5,000 for each month (or its fraction) until the Brazilian resident was brought into full compliance. IN 1.277 also imposed a penalty equal to 5 percent of the value of the transaction for filing incorrect or incomplete returns.

### The New Guidance

IN 1.336 provides new rules regarding the deadlines for reporting these transactions and modifies IN 1.277 on several points regarding the penalties. The new rules are effective immediately. The key modifications to IN 1.277 are as follows:

- **Filing Deadlines.** The deadline for filing the information returns is the last day of the month after the date on which (i) the provision of the services commenced; (ii) the intangibles were disposed; or (iii) the operations resulting in a change of net equity or wealth commenced. For transactions that took place before December 31, 2013, the filing deadline is the last day of the 6th month after the start of the operations.
- **Penalties:** The penalty for late filing or failure to file is (i) BRL 500 for each calendar month or fraction thereof for companies that filed their last tax return based on estimated profits; and (ii) BRL 1,500 for each calendar month or fraction thereof for companies that filed their last tax return based on actual profits. For other taxpayers, the penalty rules under IN 1.277 remain in force.
- **Other Penalty Modifications:** If taxpayers do not file an information return within 45 days after the

Tax Authority issued an information request, the penalty will be BRL 1,000 per month. The penalties may be reduced by 50 percent if the information return is filed after the deadline but before the Tax Authority notifies the taxpayer of the deficiency. The penalty for reporting incorrect or incomplete information is 0.2 percent (but at least BRL 100) of the previous month's gross revenue.

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