



## Brazil-US tax information exchange agreement is now in effect

### International Tax Compliance Alert

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By:

Brazil has approved and put into effect a tax information exchange agreement (TIEA) with the United States.

The TIEA was originally signed in Brasilia in March 2007, but opposition from members of the Brazilian Congress caused delays in its approval. It was finally approved on March 13.

A deciding factor in Brazil's approval of the TIEA was the impact of the US Foreign Account Tax Compliance Act (FATCA). Opposition to the TIEA had been fierce, most notably from a senator who formerly served as head of Brazil's tax department and who claimed that supplying tax information to the United States (as required by FATCA) infringed on Brazil's sovereignty and its citizens' rights, and that the agreement was unconstitutional. Despite these arguments, the TIEA was finally brought to a vote and approved.

Government officials around the world see FATCA as a new weapon in their war against money laundering. Not only does FATCA require foreign banks to provide information on the accounts of US citizens, but it also requires US banks to do the same for the accounts of foreigners.

In the past two years, Brazilian authorities and the country's central bank have aggressively pursued violations of money laundering laws, including a law passed last year that expanded the types of illegal activities associated with money laundering. Before Brazil could enter into a FATCA agreement with the United States, however, Brazil had to ratify the 2007 TIEA. Under pressure from Brazil's tax department, the central bank and the foreign ministry, Brazil's senate foreign relations panel finally resumed discussion of the TIEA in late February, leading to the recent approval.

Under the TIEA, the United States agrees to provide to Brazilian authorities information on the payment of federal income taxes, the self-employment tax, federal excise taxes and inheritance and gift taxes. Brazil agrees to provide to US authorities the same type of information for individual and company income taxes, the country's excise tax (IPI), the social contribution tax on net profits (CSLL), two company social security taxes (PIS and COFINS), the financial operations tax (IOF) and the rural property tax (ITR).

Several tax experts believe the TIEA is the first step toward approval of not only FATCA but also a tax treaty between the United States and Brazil which would prevent or minimize double taxation. Negotiations on such a treaty are still ongoing, after several years.

For more information about these topics, please contact Michael Silv and Ellis Reemer.

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