

NOVEMBER 2015

Brazil, the OECD and exchange of information for tax purposes.

Brazil is not a member of the Organization for Economic Cooperation and Development (OECD) though as a “key partner” it has been actively collaborating with the OECD and participating in a number of OECD committees for many years.

As a further sign of such collaboration, Brazil signed a cooperation agreement with the OECD at the Ministerial Council Meeting of the OECD held in Paris in June 2015.

In the specific area of taxation, on 3 November 2011 Brazil signed the Multilateral Convention on Mutual Assistance in Tax Matters. This amended Convention provides for administrative cooperation between signatory States in the assessment and collection of taxes, in particular with a view to combatting tax avoidance and evasion. The Convention is currently awaiting approval by Congress in Brazil.

As of 4 November 2015, 90 jurisdictions have signed up to this convention, including traditional offshore jurisdictions such as the Cayman Islands, Bermuda, Turks & Caicos Islands, though the Convention has not yet been ratified in all such jurisdictions.

Following calls from the G20 countries for exchange of information to be extended to the automatic exchange of information, pursuant to Article 6 of the aforementioned Convention a Multilateral Competent Authority Agreement (MCAA) has been developed, providing for such automatic exchange of information. Whilst the MCAA is multilateral, the actual exchanges of information will be bilateral.

As of 29 October 2015, 74 Jurisdictions have signed up to the MCAA, under which the date for the intended first exchange of information is established as either September 2017 or September 2018.

These 74 jurisdictions include the UK, USA, British Virgin Islands, Cayman Islands, Luxembourg, Malta, Switzerland, Austria. In addition, some twenty further jurisdictions, including Brazil, Uruguay, Panama and the Bahamas, which are not signatories to the MCAA, have provided commitments to adhere to the MCAA. In the case of Brazil, the anticipated date for the first exchange of information is September 2018.

Thus, in addition to the automatic exchange of information that will take place between Brazil and the USA under the FACTA arrangements, it is clear that a new era of transparency and cooperation in tax matters is arriving and Brazil is committed to actively participating in such era.

Robert E Williams
Partner -International Tax Department
NORONHA ADVOGADOS

E-mail: rew@noronhaadvogados.com.br

