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INSURANCE AND OPEN SUPPLEMENTARY SOCIAL SECURITY

1) PRIVATE INSURANCE SUPERINTENDENCE - SUSEP CIRCULAR No. 547, of 2/23/2017

Provides for the Consent Decree [*Termo de Compromisso de Ajustamento de Conduta - TCAC*] within the ambit of the activities related to the insurance, capitalization, open supplementary social security, reinsurance and insurance brokerage markets.

This Circular, which authorizes SUSEP to execute with individuals and legal entities that perform acts inherent in the insurance, capitalization, open supplementary social security, reinsurance and insurance brokerage

activities a consent decree (TCAC) to correct a supposedly improper fact or circumstance (art. 1), replaces SUSEP Circular no. 450/2012, which previously addressed this matter and will be revoked 30 days after the publication of this new Circular.

Along the same lines of the previous Circular and of the provisions of art. 149 of Resolution no. 243/2011, of the National Council of Private Insurance [*Conselho Nacional de Seguros Privados - CNSP*], the purpose of the TCAC will be any fact or situation that may be, in theory, considered improper by SUSEP, and, additionally, such fact or situation may be spontaneously informed to SUSEP by the entity or identified by SUSEP itself (art. 2, par. 1).

Having said that, unlike SUSEP Circular No. 450/2012, which only provided a generic outline for the signing of TCACs, the new Circular has a broader and more complete text to deal with the topic, developing the procedure to be adopted from beginning to end. This could be an asset for an increase of such agreements.

In this scenario, on one hand it is maintained that the TCAC does not imply confession as to the matter of fact

nor acknowledgment of unlawful conduct (art. 2, par. 2), and its execution is prohibited where the fact or the situation has already been investigated in an administrative sanction procedure at the first instance (art. 6).

But on the other hand, the ruling also defines new facts or situations that cannot be the subject of a TCAC, such as, for example, those (i) that were the subject of a TCAC related to the same interested party executed less than two years before; (ii) that are subject to investigation in a summary administrative sanction procedure; (iii) that involve an interested party that has already been a party to a TCAC considered non fulfilled by SUSEP less than 5 years before, among others (art. 7).

In addition, the Circular also set limits for the initial procedures for the TCAC execution (Section III); the official and material requirements for the TCAC execution proposed (Section IV); and the monitoring of the TCAC fulfillment by SUSEP (Section V).

To check the full text of the Circular please access <http://www2.susep.gov.br/bibliotecaweb/docOriginal.aspx?tipo=1&codigo=39649>.

2) DECREE No. 8998, OF 3/6/2017

Amends Decree no. 8722/2016, which approves the Regulation Structure and the Chart of At-Will Appointments and Positions of Trust of SUSEP and replaces at-will appointments of the Superior Group-Direction and Assistance [Grupo-Direção e Assessoramento Superiores - DAS] with At-Will Appointments of the Executive Branch [Funções Comissionadas do Poder Executivo - FCPE].

This Decree has two distinct, however interconnected, focuses. First, 72 at-will appointments of the Management Department of the Ministry of Planning, Development and Management were transferred to SUSEP, and following, the 72 at-will appointments of DAS were extinguished.

3) SUSEP CIRCULAR No. 548, of 3/15/2017

Amends SUSEP Circular no. 328, of July 13, 2006.

Art. 2 of such Circular now reads as follows:

"Art. 2 The special Intervention or Tax Board regimes will be conducted by active or non-active servants of SUSEP or other bodies of the Direct Federal Government and their Autonomous Agencies and Foundations established by the Federal Government or, else, State-Owned Companies or Government-Controlled Companies, as well as retirees that worked at **those entities.**"

The only alteration regarding the previous wording of the provision is in the withdrawal of the term "when ceded to SUSEP", referring to the employees of State-Owned Companies or Government-Controlled Companies.

4) SUSEP CIRCULAR No. 548, OF 3/15/2017 (RECTIFICATION)

Amends the preamble of SUSEP Circular no. 548/2017, **as follows: "Susep procedure no. 15414.002755/2006-58" should be: "Susep procedure no. 15414.605466/2017-6."**

5) FIPSUSEP – MARCH 2017

The IP address to send the data of the Periodical Information Form [*Formulário de Informações Periódicas - FIP*] and the Statistic FIP was changed from 161.148.1.223 to 189.125.157.237.

SUSEP suggests that the companies should request to their IT areas a new IP to prevent problems to send the data.

To check the current version of FIPSUSEP and its completion manual please access <http://www.susep.gov.br/menu/informacoes-ao-mercado/envio-de-dados-a-susep/fipsusep>.

6) CGSR RESOLUTION No. 55, OF 3/17/2017

Provides for the creation of the Advisory Commission of Agents of the Rural Insurance Premium [*Prêmio do Seguro Rural - PSR*].

Created within the ambit of the Interministerial Management Council of the Rural Insurance [*Conselho Gestor Interministerial do Seguro Rural - CGSR*], the Advisory Commission of the PSR Agents is intended to contribute to the development of the PSR Subsidy Program, by optimizing the government expenses and harmonizing the involved agents.

According to the Internal Regulation attached, the Commission will analyze, study, and give opinion on, the matters submitted by the CGSR, including the technical and operating conditions for the implementation and use of the rural insurance as an instrument of agricultural policy.

7) PUBLIC INQUIRY BY IAIS ON THE INSURANCE CORE PRINCIPLES (ICPs)

The International Association of Insurance Supervisors (IAIS) launched a public inquiry on several of the Insurance Core Principles (ICPs) and their integration with the ComFrame (Common Framework for the

Supervision of Internationally Active Insurance Groups).⁴

This inquiry follows the thematic approach adopted by IAIS in September 2015, whose focus is to ensure a more effective process for the preparation of supervision rules and practices.

As IAIS informs, the work involving the ComFrame, a structure that is widely used to supervise international insurance groups in operation is being carried out since 2010, and it will be fully implemented in 2019.

Comments and answers must be sent until 6/1/2017, **using IAIS's tool available on its website.**

For details on the inquiry, please access <https://www.iaisweb.org/page/consultations/current-consultations/revision-of-icps-and-comframe>.

8) SUSEP's INSTRUCTION TO THE MARKET – RISK MANAGEMENT STRUCTURE

SUSEP Circular No. 521, of December 18, 2015, included a new chapter in SUSEP Circular no. 517/2017 (Chapter II of Title II), addressing the Risk Management Structure.

Such chapter entered into effect on January 1, 2016, and a period of 2 years (until December 31, 2017) was given for the supervised entities to adapt themselves to its terms.

In this context, in this current month of March SUSEP published the first Instructions to the Market as to the Risk Management Structure in the form of a Manual.

The Risk Management Structure Instructions Manual addresses several aspects of the risk management structure of entities supervised by SUSEP, mainly those related to the (i) risk management process (identification, measurement, treatment and monitoring); (ii) supervision of risk management and the risk manager; (iii) risk management policies and

guidelines; (iv) and special cases such as DPVAT and Run-off.

The Manual can be accessed through the link <http://www.susep.gov.br/setores-susep/cgsoa/coris/requerimentos-de-capital/arquivos/Manual%20de%20orientacao%20EGR%20V1.0.pdf>.

9) CALL FOR SUSEP PUBLIC INQUIRY No. 003, OF 03/30/2017

The Superintendent of the Private Insurance Superintendence - Susep submitted for public inquiry the draft of a CNSP Resolution that includes provisions in CNSP Resolution 233/2010, which provides for changes to the Contractual Conditions of Compulsory Insurance for Civil Liability of Interstate and International Road Transport Companies.

The period to send comments and suggestions by e-mail to copat.rj@susep.gov.br is 5 days from March 30, 2017.

The above-mentioned draft is available on Susep's website, at http://www.susep.gov.br/setores-susep/seger/copy_of_normas-em-consulta-publica/copy4_of_edital-de-consulta-publica-no-09-2016.

In general, the Resolution introduces a new provision detailing that the maximum coverage limit for compulsory insurance shall include the minimum amount set by the National Land Transportation Agency (ANTT).

Therefore, it is possible for insurance companies to set a Maximum Indemnity Limit per Passenger in the amount of R\$ 160,000.00.

10) NEW BOARD OF THE SANTA CATARINA INSURERS UNION - SINDISEGSC

Mr. Rogerio Spezia will take office as the new president of SindisegSC on April 5, 2017, with the goal of contributing to the strengthening of the "insurance institution".

Spezia will seek to broaden the integration of insurers, brokers and policyholders through "planned actions focused on market orientation," which "seek understanding and will help customers to know the insurance industry better."

The inauguration ceremony will be held at 7:30 pm at the Casa de Eventos Moinho do Vale, located at 66 Porto Rico Street, in the city of Blumenau / SC.

11) TECHNICAL COOPERATION AGREEMENT EXTRACT – SUSEP AND BRAZIL NAVY, OF 04/04/2017

Technical Cooperation Agreement between the Private Insurance Superintendence and the Brazilian Navy, through the Port and Coasts Directorate - DPC.

The purpose of this agreement is to provide information by the DPC on vessels and navigation accidents occurred on the Brazilian coast, to subsidize the work of revising the methodology for calculating the rate of the Mandatory Insurance for Personal Injury

Caused by Vessels or by its Cargo - DPEM, to be carried out by SUSEP.

FINANCIAL MARKET, CAPITAL MARKET AND OTHERS

1) BRAZILIAN CENTRAL BANK - BACEN COMMUNICATION No. 30.472, OF 3/1/2017

Informs the percentage and the maximum limit of the interest rate to be used in loan contracts with prefixed interest rate executed within the ambit of the Housing Finance System [*Sistema Financeiro da Habitação - SFH*].

The percentage related to the basic yield of savings deposits addressed in the sole paragraph of art. 18-A of Law 8177/1991, effective in March, is 1.5867% per year.

The maximum limit of the interest rate for contracts with prefixed rates executed within the ambit of SFH, effective in March, is 13.7771% per year.

2) DECREE No. 8997, OF 3/3/2017, AND DECREE No. 8999, OF 3/7/2017

Decree no. 8997, published in the Federal Official Journal on 3/6/2017, amended Decree no. 4732/2003, which provides for the Foreign Trade Chamber – CAMEX, and Decree no. 4993/2004, which creates the Committee for Export Financing – COFIG.

Among the changes were some to the writing of the provisions on the members of CAMEX Board.

However, Decree no. 8999, published in the Federal Official Journal on 3/7/2017, revoked Decree no. 8997, giving again effect to all provisions that had been revoked.

Thus, currently, the norms that were in effect before the publication of the aforementioned Decrees remain in force.

3) BACEN COMMUNICATION No. 3829, of 3/9/2017

Amends Circular no. 3691/2013, allowing the use of other electronic means, in addition to the electronic signature on the digital certificate issued according to the Brazilian Public Keys Infrastructure [*Infraestrutura de Chaves Públicas Brasileira - ICP/Brasil*] for the delivery of foreign exchange contracts.

Any format agreed by the parties will be considered valid and will be accepted by the person to whom it may be submitted, such as, for example, tokens, biometry, applications, among others (art. 42, head provision, and par. 1).

This new electronic means for formalization are intended to simplify and facilitate the purchase and sale of foreign currencies, reducing costs and expediting the consummation of foreign exchange transactions.

Where any electronic means is used for the formalization, the institution authorized to operate in

the foreign exchange market is solely liable for ensuring the compliance with the law in force and the authenticity and completeness of the electronic document and the electronic signatures (art. 42, par. 2).

Additionally, in the event that the electronic means are used, the institution authorized to operate in the foreign exchange market must be able to immediately provide the Brazilian Central Bank with the printed foreign exchange contract during a period of 5 years and keep the electronic document with the information of the foreign exchange contract and the respective electronic signatures for a period of 5 years (art. 43, II and III).

4) DECREE No. 9003, OF 3/13/2017

Approves the Regulation Structure and the Chart of At-Will Appointments and Positions of Trust of the Ministry of Finance, redistributes at-will appointments and positions of trust and replaces at-will appointments of the DAS with FCPEs.

This Decree redistributes the following at-will appointments of Group-DAS and Positions that Pay Salary and Bonus [*Funções Gratificadas - FG*]: (i) 32 positions of the Ministry of Finance to the Management Department of the Ministry of Planning, Development and Management; (ii) 82 positions of the extinct Ministry of Social Security to the Management Department of the Ministry of Planning, Development and Management; and (iii) 121 positions of the Management Department of the Ministry of Planning, Development and Management to the Ministry of Finance.

The decree also redistributes 1,592 FCPEs of the Management Department of the Ministry of Planning, Development and Management to the Ministry of Finance, and simultaneously extinguishes 1592 at-will appointments of Group-DAS.

5) BRAZILIAN SECURITIES AND EXCHANGE COMMISSION - CVM INSTRUCTION No. 584, OF 3/22/2017

Provides for the securities distribution program and amends and adds provisions to CVM Instruction no.400/2003 and CVM Instruction no. 480/2009.

CVM Instruction no. 400/2003, as amended, provides for public offers of securities in the primary or secondary markets.

Among the amendments we point out the change to the periods for analysis (10 business days); fulfillment of requirements (10 business days); and confirmation that the requirements were fulfilled (5 business days), in the event the registration requirements are dispensed with, according to art. 4, par. 1, VII.

On the other hand, CVM Instruction no. 480/2009, also amended, provides for the registration of securities issuers admitted to negotiate in regulated securities markets.

Par. 2 of art. 24 was amended and now it establishes that the issuer must re-deliver the reference form, updated, also on the date of the application for registration of the distribution program or disclosure of the preliminary supplement and that the provisions in the notes to Annex 24 concerning the application for registration of public distribution of securities will apply to the application for the registration of the distribution program and the disclosure of the preliminary supplement.

In addition, for the purposes provided in item VII of art. 1 and item XI of art. 2, regarding financial statements specifically prepared for the registration, audit reports with modified opinion on the financial statements will not be accepted.

6) INFORMATION ELECTRONIC SYSTEM - SEI ADMINISTRATIVE RULE No. 133, OF 3/6/2017

Establishes the supplementary regulation of the Program for Technological Innovation Incentive and

Densification of the Productive Chain of Automotive Vehicles [*Programa de Incentivo à Inovação Tecnológica e Adensamento da Cadeia Produtiva de Veículos Automotores – INOVAR-AUTO*], and the procedures for registration of independent auditors to confirm the fulfillment of commitments and requirements according to the INOVAR-AUTO Program.

This Administrative Rule approves the Audit Manual for independent auditors to confirm the fulfillment of commitments and requirements addressed by Decree no. 7819/2012, which deals with the INOVAR-AUTO.

To check the Audit Manual please access the institutional website of the Ministry of Industry, Foreign Trade and Services on www.mdic.gov.br.

7) PUBLIC HEARING SNC 01/2017 – BRAZILIAN SECURITIES AND EXCHANGE COMMISSION

The Brazilian Securities and Exchange Commission (CVM) submitted for public inquiry, on 03/29/2017, the draft of a norm that proposes amendments to CVM

Instruction 308, which provides for the registration and exercise of independent activity in the securities market.

CVM Instruction 308/1999, considered a milestone for the independent audit activity in the securities market, was responsible for consolidating the regulation of such activity, in addition to introducing relevant mechanisms such as the technical qualification examination, the extended education program, among others.

According to the CVM, the new draft "proposes to reduce the flow of documents necessary for the maintenance and updating of the registry with this Autarchy, as well as to rationalize the activity of monitoring this activity."

Therefore, the discussed draft proposes the introduction of new additional mechanisms that will have the purpose of strengthening and ratifying the reliability and quality of the independent auditors registered with the CVM.

These mechanisms are: (i) the maintenance of a policy of extended education from the approval in the

technical qualification examination until its registration with the CVM; and (ii) to work exclusively in a single audit firm and the implementation of a extended education policy for all components of audit teams involved in audit work.

Comments and suggestions should be sent by e-mail to audpublicaSNC0117@cvm.gov.br until April 28, 2017.

The draft is available on the CVM website at the link http://www.cvm.gov.br/audiencias_publicas/ap_snc/2017/snc0117.html.

8) BACEN COMMUNICATION No. 30.576, of 31/03/2017

Informs the percentage and the maximum limit of the interest rate to be used in loan contracts with prefixed interest rate executed within the ambit of the Housing Finance System [*Sistema Financeiro da Habitação - SFH*].

The percentage related to the basic yield of savings deposits addressed in the sole paragraph of art. 18-A of Law 8177/1991, effective in April, is 1.1162% per year.

The maximum limit of the interest rate for contracts with prefixed rates executed within the ambit of SFH, effective in April, is 13.2501% per year.

CLOSED SOCIAL SECURITY

1) SUPPLEMENTARY PENSION PLAN SUPERINTENDENCE/ACCOUNTING, ACTUARIAL AND ECONOMIC MATTERS BOARD - PREVIC/DIACE ADMINISTRATIVE RULE No. 194, OF 3/17/2017(*)

Establishes how and when to send the information for assessment of the duration of the liabilities, referred to in Resolution no. 18, of March 28, 2006 and the pricing

adjustment referred to in Resolution no. 26, of September 29, 2008, both of the Supplementary Social Security Council, also referred to in Previc Instruction no.19, of February 4, 2015, related to actuarial assessment arising from a relevant fact.

The administrative rule establishes that the assessment of the duration of liabilities and the pricing adjustment will be done using the specific electronic spreadsheet **published on Previc's website. This electronic spreadsheet must be sent to Previc until the date for sending the Actuarial Statement prepared for a relevant reason, according to the operating detailing to be published on the Agency's page using Previc's File Submission System [Sistema Transmissor de Arquivos – STA].**

2) LIST OF THE QUALIFIED LEADERS OF FEBRUARY 2017

On March 16, 2017 PREVIC published on its website the List of Qualified Leaders of the closed supplementary social security entities [*Entidades Fechadas de*

Previdência Complementar - EFPC) for February 2017. To check the list please access <http://www.previc.gov.br/a-previdencia-complementar-fechada/legislacao-especifica-1/portarias/2017/portaria-previc-no184-de-15-de-marco-de-2017.pdf>.

3) SPECIAL APPEAL REsp No. 1.564.070/MG

On March 22, 2017, the Second Section of the Superior Court of Justice - STJ, rendered unanimous decision on REsp no. 1564070/MG, under the repetitive appeal proceedings, and set the following precedent: **“Concerning the supplementary social security plans operated by a closed entity, the regulatory provision on adjustment, based on the same indexes adopted by General Social Security Regime, does not include the part corresponding to actual increases.”** The appellate decision will be published soon.

HEALTH

1) PEOPLE MANAGEMENT AND LABOR RELATIONSHIP DEPARTMENT - SEGRT ADMINISTRATIVE RULE No. 001, OF 3/9/2017

Issues instructions to bodies and entities of the Civil Personnel System of the Federal Government [*Sistema de Pessoal Civil da Administração Federal – SIPEC*] as to supplementary health care of the civil servants of the federal executive branch and the soldiers of the Military Fire Brigade of the extinct Federal Territories of Amapá, Rondônia and Roraima, whether active or not, and their families as well as retirees, and provides for other measures.

2) NORMATIVE INSTRUCTION No. 003, OF 3/9/2017

Provides for electronic communications between the Resources Coordination Office of the Collective Board [*Coordenadoria de Recursos da Diretoria Colegiada – COREC*] and the private health care plan companies.

This Instruction is intended to set the limits of the electronic communication among the above-mentioned entities, according to Normative Resolution no. 411/2016, which introduced the electronic communication between the ANS and the private health care plan companies.

In general, COREC and the companies will use the File Submission Program [*Programa Transmissor de Arquivos – PTA*] application to communicate with each others and send documents, which must be made available in the received files area of the PTA for a period of 30 days.

The PTA and its instruction manual may be accessed on <http://www.ans.gov.br/planos-de-saude-e-operadoras/espaco-da-operadora/aplicativos-ans>.

3) SECTOR DEVELOPMENT BOARD - DIDES NORMATIVE INSTRUCTION No. 67, OF 3/9/2017

Regulates the periodical monitoring of compliance with Normative Resolution no. 389/2015, which provides for transparent information on the supplementary health care, obligation to make available information on private health care plans in Brazil, among others.

This instruction establishes that DIDES will request the Inspection Board [*Diretoria de Fiscalização – DIFIS*] to prepare annual reports on the applications entered in the Integrated Inspection System [*Sistema Integrado de Fiscalização – SIF*], **through the ANS's beneficiary** assistance channels, which contain reports on the rules laid down in said Normative Resolution no. 389/2015 (art. 2).

DIDES, then, will prepare the annual reports based on those applications, grouping them according to the following criteria:

I - private health care plan companies and benefit management companies; and

II - factual context, subdivided into requests related to:

- a) Information Portal of the Supplementary Health Care Plan Beneficiary [*Portal de Informações do Beneficiário da Saúde Suplementar - PIN-SS*], described in art. 6 of Normative Resolution no. 389, of 2015;
- b) National Health Card [*Cartão Nacional de Saúde - CNS*], according to arts. 19 and 20 of Normative Resolution no. 389, of 2015; and
- c) Detailed statement, as contained in art. 14 of Normative Resolution no. 389, of 2015.

4) BOARD OF RULES AND QUALIFICATION OF HEALTH PLAN COMPANIES - DIOPE NORMATIVE INSTRUCTION No. 53, OF 3/13/2017

Amends Normative Instruction no. 52/2016 of the Board of Rules and Qualification of Health Plan Companies [*Diretoria de Normas e Habilitação das Operadoras - DIOPE*], which provides for the electronic communication between DIOPE and the private health care plan companies.

With the new rule, the head provision of art. 4 of said **Instruction provides for the possibility of DIOPE's** sending requests, through the PTA application, not only for transactions involving the portfolio of bonds and securities but also for those involving documents and requests related to services under the competence of DIOPE.

In addition, par. 2 of that same provision that prohibited the use of the electronic protocol to send

documents other than those listed in the head provision was revoked.

The PTA application and its instruction manual may be accessed on <http://www.ans.gov.br/planos-de-saude-e-operadoras/espaco-da-operadora/aplicativos-ans>.

5) INTERNAL RESOLUTION No. 001, OF 3/17/2017

Introduces the Internal Resolution of ANS.

This Resolution set the limits of the basic organizational structure of ANS as well as outlines the chart of competences of its bodies; deals with the assignments of **ANS's directors and other employees; conceptualizes** the administrative acts according to their purposes and establishes the operating administrative structures of the Executive Boards.

To check the full text of the Resolution please access <http://www2.susep.gov.br/bibliotecaweb/docOriginal.aspx?tipo=1&codigo=39649>.

6) NORMATIVE RESOLUTION No. 421, OF 3/23/2017

Amends Normative Resolution no. 2016, which provides for the Program for Qualification of Supplementary Health Care Services Providers [*Programa de Qualificação dos Prestadores de Serviço na Saúde Suplementar – QUALISS*].

The main focus of the amendments introduced by the Resolution are (i) the definition of the qualification attributes of the supplementary health care services providers (Chapter II); (ii) the introduction of more Entities responsible for monitoring, assessing and/or sending data to ANS (Chapter III, Sections I and III); and (iii) the participation of Entities that Manage Other Quality Programs (Chapter III, Section IV).

To check the full text of the Resolution and all amendments please access

<http://www2.susep.gov.br/bibliotecaweb/docOriginal.aspx?tipo=1&codigo=39649>.

7) NOTICE OF ANS PUBLIC HEARING No. 006, OF 3/9/2017

The National Supplementary Health Agency [*Agência Nacional de Saúde Suplementar* – ANS] held on 3/20/2017 a public hearing to obtain subsidies, suggestions and criticisms related the proposed Normative Resolution related to the Financial Mechanisms of Claim Adjustment (Co-Participation and Franchising).

According to ANS, the Resolution discussed at the hearing is intended to promote the safety and transparency of the co-participation and franchising mechanisms by defining rules for their use, setting a maximum co-participation percentage and requiring the companies to make available information to guide the beneficiary when taking out plans that use such instruments.

To check the proposed Resolution, please access http://www.ans.gov.br/images/RN_Mec_Financeiros_Regula%C3%A7%C3%A3o_pos_dicol.pdf, and all documents related to the public hearing may be

accessed on <http://www.ans.gov.br/participacao-da-sociedade/audiencias-publicas/audiencia-publica-06>.

8) ANS PUBLIC INQUIRY No. 60, OF 3/23/2017

The Collective Board of ANS held a public inquiry on 3/24/2017 to discuss the proposed Normative Resolution, which provides for the financial mechanisms for claim adjustment, such as co-participation and franchising, that the companies may use for their products to be offered or bought in the supplementary health market.

Suggestions may be sent between March 31 and May 2, and the contributions must be sent by electronic means in a proper form that will be made available on ANS page.

This ANS Public Inquiry no. 60 is held following the debates of March 20 at the public hearing attended by more than 170 persons representing 94 entities related to the sector.

To check the proposed Normative Resolution and involved documents, please access ANS website on <http://www.ans.gov.br/participacao-da-sociedade/consultas-e-participacoes-publicas/consulta-publica-60-mecanismos-financeiros-de-regulacao-coparticipacao-e-franquia>.

TAX

1) BRAZILIAN FEDERAL REVENUE - RFB NORMATIVE INSTRUCTION No. 1699, of 3/9/2017

Establishes the obligation to provide information through e-Financeira in conformity with the Special Regime for Foreign Exchange and Tax Good Standing [*Regime Especial de Regularização Cambial e Tributária - RERCT*].

This instruction provides for the obligation to supply information through e-Financeira in conformity with

the RERCT. It establishes that the information will be transmitted using a specific module of e-Financeira, in the period from 5/2/2017 to 6/30/2017. It also establishes that the Inspection General Coordination Office will edit the layout and instruction manual of e-Financeira to be used in this case.

2) RFB NORMATIVE INSTRUCTION No. 1700, of 3/14/2017

Provides for the payment of the income tax and the social contribution on net profit of corporate taxpayers and regulates the tax treatment of the contribution for the PIS/Pasep and Cofins taxes as to the amendments introduced by Law no. 12973, of May 13, 2014.

This instruction regulates the assessment and payment of the Corporate Income Tax [IRPJ], Social Contribution on Net Profit [CSLL], Contribution for the Social Integration Program [PIS], and Contribution for Social Security Funding [COFINS], and provides for the following topics, among others:

- a) assessment of IRPJ and CSLL under the accrual basis accounting;
- B) the 15% rate applied to the taxable income, presumed profit or estimated profit, and the additional 10% applied to the portion exceeding the multiplication of R\$ 20,000.00 by the number of months of the assessment period.
- c) the annual assessment of the taxable income for legal entities opting for the payment of estimates.
- d) the legal additions in case of non-payment or insufficient payment of the tax; and
- e) the criteria for exclusion of the negative difference verified on the date of the initial adoption between the deferred charges in the corporate accounting and the Transition Accounting Control - FCONT accounting;
- f) tax neutrality, for transactions carried out before the date of the initial adoption;
- g) tax good standing bonus for legal entities under the taxable income or presumed profit

regimes, calculated upon application of 1% to the base for the CSLL calculation.

All previous normative instructions addressing this matter were revoked.

3) RFB NORMATIVE INSTRUCTION No. 1701, of 3/14/2017

Introduces the Digital Tax Accounting of Withheld Amounts and Other Tax Information [*Escrituração Fiscal Digital de Retenções e Outras Informações Fiscais - EFD-Reinf*].

This instruction established and regulated the monthly sending of EFD-REINF. It provides that the following entities are required to adopt it:

- a) legal entities that provide and contract services performed using assignment of labor;
- b) legal entities responsible for withholding the social contributions;

c) legal entities, legal entities that are rural producers and agroindustries opting for payment of Social Security Contribution on Gross Sales [*Contribuição Previdenciária sobre a Receita Bruta - CPRB*];

It also established that the term to fulfill the obligation **starts to run on 1/1/2018, if the legal entity's gross sales** for 2016 exceeded R\$ 78 million; or on 71/2018, if the **legal entity's gross sales** for 2016 were up to R\$ \$78 million.

4) RFB NORMATIVE INSTRUCTION No. 1702, of 3/21/2017

Regulates customs clearance processed using the Sole Export Statement [*Declaração Única de Exportação - DU-E*].

This instruction regulated the DU-E, an electronic document introduced by RFB/SECEX Joint Administrative Rule no. 349/2017 and which must contain information of customs, administrative, commercial, financial, tax and logistics nature that is

characteristic of exports of goods supported by such document and define the classification of the export; the customs clearance will be based on such information.

5) BRAZILIAN FEDERAL REVENUE / FOREIGN TRADE DEPARTMENT - RFB / SECEX JOINT ADMINISTRATIVE RULE No. 349, of 3/21/2017

Provides for the DU-E.

The RFB/SECEX Administrative Rule no. 349/2017 introduced the DU-E, an electronic document that defines the classification of exports, supports customs clearances and provides information of customs, administrative, commercial, financial, tax and logistics nature characteristic of exports of goods supported by such document. Such statement must be prepared on the Foreign Trade Portal of the Integrated Foreign Trade System (SISCOMEX Portal), and will replace the

Export Registration [*Registro de Exportação - RE*], the Export Statement [*Declaração de Exportação - DE*] and the Simplified Export Statement [*Declaração Simplificada de Exportação - DSE*], where applicable.

6) MINISTRY OF DEVELOPMENT, INDUSTRY AND FOREIGN TRADE - MDIC ADMINISTRATIVE RULE No. 14, OF 3/22/2017

Provides for exports processed using the DU-E.

This administrative rule addresses exports processed using the DU-E, which will be prepared on the Siscomex Portal.

The following transactions may not be processed using the DU-E: a) transactions using river, rail and road transportation modes; b) transactions subject to the approval of bodies and entities of the Federal Government, without prejudice to the control by the RFB; c) transactions that prove or may prove transactions under the drawback regime; d)

transactions financed by resources from the Export Financing Program [*Programa de Financiamento às Exportações - PROEX*]; e) transactions subject to quota control.

7) INSPECTION COORDINATION OFFICE - COFIS EXECUTIVE DECLARATORY ACT No. 18, OF 3/10/2017

Provides for the Layout and the Manual on the Completion of the RERCT, a Specific Module of e-Financeira.

Provides for the Layout and the Manual on the Completion of the Specific RERCT Module of e-Financeira; to check the contents please access

<http://sped.rfb.gov.br/pastalegalizacao/show/1501>.

8) ANSWER TO INQUIRY No. 174, of 3/13/2017

SUBJECT: Contribution for the Social Security Financing
[Contribuição para Financiamento da Seguridade Social - COFINS]

SYNOPSIS: Insurance brokers. List of entities contained in art. 22, par. 1, of Law no. 8212, of 1991. Binding precedents. Special Appeal no. 1400/287 and Special Appeal no. 1391092/SC

In this answer, the authority recognized that the precedents set by the Superior Court of Justice - STJ that concluded that insurance brokers do not fit the concept of financial institutions (private insurance brokers and autonomous agents) produce binding effects on the Federal Revenue and apply to all tax purposes, among them, the levy of PIS and COFINS, whether ordinarily cumulative or non-cumulative, depending on the profit taxation regime.

9) ANSWER TO INQUIRY No. 99042, of 3/13/2017

SUBJECT: Individual Income Tax [*Imposto sobre a Renda de Pessoa Física - IRPF*]

SYNOPSIS: Taxation Regime. Supplementary Social Security Earnings

Confirms the Federal Revenue's position on some topics related to the taxation of the private social security plans, namely:

- Benefits and redemptions will be taxed at source, at **the participant's option**, according to the progressive table, as advance on the amount due under the Annual Tax Adjustment Return [*Declaração de Ajuste Anual - DAA*], or according to decreasing rates, considering the cumulation period, exclusively at source.

- The amount paid in a lump sum by reason of the **participant's death or permanent disability**, corresponding to the reversion of the contributions to the plan, with financial earnings accrued or not, is not

payment of reserve (insurance), therefore, it is taxable at source, as advance on the tax due in the DAA of an individual or exclusive taxation at source in the cases of option for the decreasing rate regime by virtue of the cumulation period - Law no. 11053, of December 29, 2004, art. 1.

- Insurance received from a supplementary social **security entity arising from the participant's death or** permanent disability is exempt from income tax. The term "insurance" used in art. 6, item VII, of Law no. 7713, of December 22, 1988, means reserve paid in a lump sum.
- Reserve is understood as the benefit paid in a lump sum by a supplementary social security entity in case of **the participant's death or permanent disability**, understood as a risk benefit with the characteristic of insurance, expressly provided in the benefit plan contracted.
- Contributions paid to supplementary social security entities domiciled in Brazil, with burden placed on the taxpayer, designed to fund supplementary benefits similar to those of the social security, subject to a limit

of 12% of the taxable earnings, and provided that the taxpayer make contributions to the General Social Security Regime or the Own Social Security Regime, in the case of government employee or public servant, will be deductible:

- (i) in the monthly tax levy and in the DAA, where the holder or quotaholder is a worker with employment relationship;
- (ii) in the DAA, where the earnings are received without employment relationship and subject to annual adjustment;
- (iii) in the DAA, the contributions to the supplementary social security whose holder is a dependent of the person presenting the tax return, for the purposes of the income tax, to the benefit of a dependent above 16 years of age, upon the condition of payment, on his/her behalf, of the contributions to the General Social Security Regime, subject to the minimum contribution, or, where applicable, to the own social security regime of public servants occupying a position in the Federal, State,

Federal District or Municipal Government, and the deduction will be made in the DAA of the taxpayer of whom he/she is dependent.

- The amounts paid to supplementary social security entities on account of reserve or insurance will not be deductible for the purposes of assessment of the tax due in the DAA of an individual.

10) ANSWER TO INQUIRY No. 186, of 3/17/2017

SUBJECT: Social Security Contributions

Clarifies that the Closed Social Security Entities [*Entidades Fechadas de Previdência Complementar - EFPC*], by operation of art. 1 of RFB Normative Instruction no. 1452, of February 21, 2014, are required to provide the RFB with information on receipt of contributions, premiums and contributions to fund benefit plans of social security nature, on payment of redemptions to participants or beneficiaries and on amounts of contributions whose origin is surplus funds.

LABOR

1) BILL No. 4302/1998

On 03.31.2017, the President of the Republic approved, partially (vetoes from excerpts already provided for in the legislation), Law 4,302/1998, that regulates the provision of services through outsourced labor ("outsourcing"). In addition to amending some provisions related to the contract of temporary employment.

- Outsourcing Regulation

Currently there is not in Brazil any law or legal provision that regulates the outsourcing, except for Precedent 331 of the Superior Labor Court that unifies the understanding of the labor courts that it is not possible for a company to contract another company to provide **services that are part of the former's core business but**

only to contract a company to provide services related to its accessory activities. Ex.: surveillance and cleaning). Such understanding causes uncertainty in the sector given that the understanding of the activities that are accessory or fundamental to a business is quite subjective.

Exactly to dispel such uncertainty and fill the legislative gap, said Bill is intended to settle such issue, and according to the text sanctioned by the president, there will be no restrictions on the engagement of specialized companies to provide services, irrespective of such services bearing or not any relation to the core activities of the client company. The text also provides for the **client company's secondary liability (after all means to** require the services provider company to fulfill its liabilities have been exhausted) for the payment of labor amounts to the outsourced employees, in **addition to the client company's obligation to ensure** the application of the occupational health and safety rules to the services executed on its premises.

In addition, Bill no. 4302/1998 also provides as follows:

- linked minimum capital for the services provider company (R\$ 10,000.00 to R\$ 250,000.00, according to the number of workers).
- the client company may (option) provide the outsourced worker with medical assistance, first-aid services and meals made available to its employees.
- the minimum requirements for the validity of the services agreement.

Finally, although the outsourcing of any type of activities will be permitted, it will be possible for outsourced workers to claim acknowledgment of employment relationship with the client companies where the requirements set in article 3 of the Brazilian Labor Code - CLT are met, namely, personal service, noncasualness, service provided for compensation and, in particular, subordination. In other words, although outsourcing of all activities is possible, the outsourced workers cannot be subordinated to the associates of the client companies, and for this reason a in-depth study is recommended before the adoption of any type of outsourcing.

- Changes in the Temporary Work Regime

The approved Bill also provides for the following changes in the temporary work regime:

- the possibility for the temporary worker to render the same services after 90 days of the end of the previous contract.
- the secondary liability of the client company is limited to the period of the temporary work.

- hiring of temporary workers for a **“supplementary demand” (meaning “a demand for services arising from unpredictable or predictable factors that is occasional, periodical or seasonal”)**.
- linked minimum capital for the temporary work company (R\$ 100,000.00).
- the minimum requirements for the validity of the services agreement.

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