

10 January 2019

Global Tax Alert

News from Americas Tax Center

Brazil extends deadline for companies in north and northeastern regions to apply for tax incentives

NEW! EY Tax News Update: Global Edition

EY's new Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access information about the tool and registration [here](#).

EY Americas Tax Center

The EY ATC brings together the experience and perspectives of over 10,000 tax professionals across the region to help clients address administrative, legislative and regulatory opportunities and challenges in the 33 countries that comprise the Americas region of the global EY organization. Access more information [here](#).

On 4 January 2019, Brazil enacted Law No. 13.799/2019, which extends the deadline from 31 December 2018 to 31 December 2023, for companies to apply for a 75% reduction in corporate income tax (IRPJ) and additional non-refundable amounts calculated on the basis of the "exploration profit" (operating profit). Had the original deadline (31 December 2018) not been extended, companies with new projects would not have been able to apply for the incentives, and companies with incentives for existing projects that were about to expire (incentives normally last for up to 10 years) would not have been able to renew them.

The tax incentives apply to companies that are part of specific economic sectors, considered by the Executive Power as priorities for regional development, and located in the regions covered by SUDAM (Superintendence for Development of the Amazon - North Region) and SUDENE (Superintendence for Development of the Northeastern Region), with projects that fall under one or more of the following categories: implementation, expansion, modernization and diversification.

Bill No. 10.160/2018, approved by the Senate on 11 December 2018, was partially vetoed and partially enacted as Law No. 13.799/2019. The original bill, approved by Congress, extended the current benefits applied to the regions under SUDAM and SUDENE administration to the States of Goiás

and Mato Grosso do Sul under SUDECO (Superintendence of Development of the Center Western Region) administration. The President signed the bill but vetoed the extension of these benefits.

Despite the veto, Law No. 13.799/2019 made investments in the north and northeastern regions of Brazil more attractive by allowing companies to use up to 50% of the amount deposited as reinvestment in working capital. Until 31 December 2018, the total amount deposited as reinvestment could only be used to purchase new machinery or equipment used in the production process.

The Law also incorporated paragraph 4 of Article 19 of Law No. 8.167 of 6 January 1991, which was effective until 31 December 2018. Paragraph 4 states:

- ▶ § 4º For companies that have deposits of more than [five] years and have not submitted projects to SUDAM or SUDENE until 31 December 2018, the resources originated from the reinvestment of corporate income tax, excluding the portion of [the companies'] resources, must be reimbursed in favor of the Federal Government.

The President also approved Decree 9,682, dated 4 January 2019, dealing with the approval process for companies to benefit from the tax incentives. Under the decree, the approval of the tax incentive is conditioned on the revenue waiver limit established in the Statement of Tax Expenses (DGT) by the Federal Revenue Services and included in 2019's Budget Directive Law (LDO). Currently, the revenue waiver is 4.12% of GDP and, according to the commitment in the recently approved LDO, the waiver will be reduced to 2% in 10 years.

Considering that the tax incentives granted by SUDAM and SUDENE are to be considered when evaluating the percentage of waiver amounts, the granting or renewing of SUDAM and SUDENE incentives may become more difficult due to the Government's need to reduce revenue waivers. Accordingly, companies with projects in these regions should evaluate the need to apply for or renew their incentives and properly prepare their case files, in order to secure a speedier and steady approval process.

For additional information with respect to this Alert, please contact the following:

Ernst & Young Serviços Tributários SP Ltda, São Paulo

- ▶ Sergio Fontenelle sergio.fontenelle@br.ey.com

Ernst & Young Serviços Tributários SP Ltda, Recife

- ▶ Maria do Carmo Leocadio maria.c.leocadio@br.ey.com
- ▶ Francisca Lacerda francisca.lacerda@br.ey.com
- ▶ Andre Lima andre.lima@br.ey.com
- ▶ Henrique Galvão henrique.galvao@br.ey.com

Ernst & Young LLP, Latin American Business Center, New York

- ▶ Gustavo Carmona Sanches gustavo.carmona1@ey.com
- ▶ Aline Nunes aline.nunes1@ey.com
- ▶ Marcus Segnini marcus.segnini1@ey.com
- ▶ Ana Mingramm ana.mingramm@ey.com
- ▶ Pablo Wejcman pablo.wejcman@ey.com
- ▶ Enrique Perez Grovas enrique.perezgrovas@ey.com

Ernst & Young LLP (United Kingdom), Brazilian Tax Desk Leader, London

- ▶ Felipe Fortes ffortes@uk.ey.com

Ernst & Young LLP (United Kingdom), Latin American Business Center, London

- ▶ Jose Padilla jpadilla@uk.ey.com

Ernst & Young Tax Co., Latin American Business Center, Japan & Asia Pacific

- ▶ Raul Moreno, *Tokyo* raul.moreno@jp.ey.com
- ▶ Luis Coronado, *Singapore* luis.coronado@sg.ey.com

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

Americas Tax Center

© 2019 EYGM Limited.
All Rights Reserved.

EYG no. 012728-18Gbl

1508-1600216 NY
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com