

# GMS Flash Alert

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## Brazil – New Voluntary Disclosure Program and Properties Value Update

On September 16, 2024, the Brazilian government enacted Law No. 14,973/2024,<sup>1</sup> which, among other measures, reinstates the special regime for the voluntary disclosure of currency and tax assets (“RERCT-Geral”), allowing the regularization of resources (legal), both in Brazil and abroad, that were previously undeclared or erroneously declared. A similar program was introduced in Brazil in 2016 only for assets located abroad.

Additionally, the same legislation provides for the possibility of updating the value of real estate assets by paying a defined tax rate.

### WHY THIS MATTERS

(1) This year, the Brazilian government offers tax residents in the country the opportunity to regularize their tax affairs in respect of outstanding or undeclared/mis-reported/under-reported assets, both in Brazil and abroad. This should be welcome news considering the absence of criminal prosecution and the application of lower tax rates and penalties.

(2) Also, the possibility of updating the value of real estate properties by paying a reduced capital gains tax rate could represent a significant decrease in future tax burdens on individuals.

### Main Aspects of Law No. 14,973/2024 for Individuals

#### Voluntary Disclosure of Currency and Tax Assets (“RERCT-Geral”)

The “RERCT-Geral” applies to Brazilians and foreign nationals who are tax resident in Brazil on December 31, 2023 (even if they are not resident in 2024), who have been or are owners of assets and rights on December 31, 2023 or before, and who have not declared those to the tax authorities, or have declared them with some omissions or incorrect data, and plan to voluntarily disclose them.

The procedures and conditions for adherence were determined through Federal Revenue Normative Instruction No. 2,221/2024<sup>2</sup>, which includes:

- I. submission of the “Dercat – Declaração de Regularização Cambial e Tributária” (*Declaration of Exchange and Tax Regularization*), via the individual’s Brazilian Federal Revenue online portal (“Portal eCAC”), from September 23, 2024 until December 15, 2024;
- II. payment of the applicable taxes at a fixed rate of 15% (fifteen percent) by December 15, 2024 – for foreign assets, the taxable basis should be calculated considering the official exchange rate for December 31, 2023, from the Central Bank of Brazil;
- III. payment of the 100% (one-hundred percent) penalty on the assessed tax, as per above, by December 15, 2024.

## Real Estate Properties Value Update

Law No. 14,973/2024 also allows individuals to update the value of their real estate properties reported in their 2024-2023 Brazil Annual Individual Income Tax Return, by paying a fixed rate of 4% (four percent) on the calculated capital gain, by December 16, 2024.

Individuals electing for this update should file the “Declaração de Opção pela Atualização de Bens Imóveis – Dabim” (*Declaration of Option to Update Real Estate Assets*), via their Portal eCAC, from September 24, 2024 until December 16, 2024. Then, the updated value must be reported in their 2025-2024 Brazil Annual Individual Income Tax Return, by May 30, 2025.

The Federal Revenue Normative Instruction No. 2,222/2024<sup>3</sup> provides for the possibility of updating the following real estate properties:

- I. In Brazil.
- II. Abroad.
- III. That form part of the assets of a controlled entity abroad where the individual has opted for the tax transparency regime.
- IV. That are part of the assets of a foreign trust (one established abroad) whose trustee is obliged to declare the assets and rights of the trust in his/her tax return.

The update cannot be made to real estate properties which were not reported in the individual’s 2024-2023 Brazil Individual Income Tax Return (unless the individual was not eligible for one), to properties acquired in 2024, nor to properties sold prior to the date this update election was formally made.

If the updated property is sold before 15 (fifteen) years have passed as from its update, the calculation of the capital gain tax will be adjusted in proportion to the time elapsed since the update. The percentage starts at 0% (zero percent) for disposals occurring within 36 (thirty six) months and gradually increases to 100% (one-hundred percent) after 180 (one-hundred eighty) months.

## KPMG INSIGHTS

Concerned taxpayers may wish to consult with their qualified tax professional (1) to determine whether their undeclared or under-reported resources/assets/rights are “captured” by the new rules and the next steps they should take and (2) to determine whether their real estate property qualifies for the new updating policy.

## FOOTNOTES:

1 To see (in Portuguese) Law No. 14,973/2024 (*Lei n. 14.973, de 16 de setembro de 2024, publicada no Diário Oficial da União de 16/09/2024*), [click here](#).

2 To see (in Portuguese) Federal Revenue Normative Instruction No. 2,221/2024 (*Instrução Normativa RFB nº 2.221, de 19 de setembro de 2024, publicada no Diário Oficial da União de 20/09/2024*), [click here](#).

3 To see (in Portuguese) Federal Revenue Normative Instruction No. 2,222/2024 (*Instrução Normativa RFB nº 2.222, de 20 de setembro de 2024, publicada no Diário Oficial da União de 24/09/2024*), [click here](#).

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**The information contained in this newsletter was submitted by the KPMG International member firm in Brazil.**

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