

Repatriation to Brazil of Assets Held Abroad

by Ana Cecília Giorgi Manente

Uncertainties about the future political and economic situation of Brazil have created great concerns that owners of assets abroad will be required to repatriate such assets to Brazil. Brazilian legislation expressly allows both individuals and companies domiciled in Brazil to maintain bank accounts abroad, provided they comply with local exchange and tax laws. The permissibility of such bank accounts is based, among other statutes, on Decree-law No. 1,060, dated October 21, 1969, which governs the declaration to the Central Bank of Brazil (BACEN) of all assets that Brazilian domiciliaries or residents maintain abroad.

By means of Circular No. 2,677, dated April 10, 1996, the Central Bank determines the way transfers to and from Brazil, made with the intention of constituting bank deposits and repatriation of assets, must be made. This Circular confirms the possibility of the maintenance of bank accounts abroad.

Even though such remittances have not been contemplated among the ones made through the free rate

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exchange market, they can be made through the mechanism known as "the international transfer of *reais*," under the category of "Brazilian short-term capital" / "available abroad."

Once the foreign exchange rules for the transfer of assets and the tax rules are complied with, there are no legal restrictions that can be placed on the use of the assets.

The description of the transfer, as provided to the financial institution responsible for the international transfer of *reais*, must relate to the destination of the assets intended by the transferor. Therefore, whoever remits assets under the category "Brazilian short-term capital" / "available abroad," must intend to maintain those assets in a foreign bank account for short-term use. Such intention does not require nor impede the transferor from investing, keeping, or spending the assets within the short-term period.

The Central Bank cannot, in the absence of statutory basis, demand that the assets remitted abroad as "short-term Brazilian capital" / "available abroad," be repatriated. □

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