Provisional Measure 1262 – OECD Pillar 2 and Brazil's Top-up Tax

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On October 3, 2024, Brazil adopted legislation and regulations dealing with the Global Anti-Base Erosion (GloBE) Rules, under the scope of the Pillar 2 of the Organisation for Economic Co-operation Development.

The Pillar 2 rules aim to establish a global minimum tax of 15% for Multinational Enterprise Groups. Some of rules of the Pillar 2 have already been implemented in many jurisdictions, including the countries within the European Union.

The Provisional Measure n. 1.262/2024 (PM 1262), and the Normative Ruling n. 2.228/24 issued by the Federal Revenue Service of Brazil (RFB IN 2228), introduce one of the Pillar 2 rules - the Qualified Domestic Minimum Top-up Tax (QDMTT), under which entities domiciled in Brazil ("Constituent Entities") that are part of a Multinational Enterprise Group will be subject in Brazil to a Social Contribution on Net Profit (CSLL – *Contribuição Social sobre o Lucro Líquido*) Top-up Tax on profits arising in Brazil whenever the effective tax rate is below the minimum rate 15%. According to the QDMTT rule, the earnings of entities within the MNE Group that are located outside Brazil do not fall within the new rule.

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