

**"All men by nature desire knowledge" - Aristotle****Welcome To The Tax Intelligence Report!**

The September 2010 issue of the Tax Intelligence Report highlights the professional tax career of Luis Rogerio Farinelli. This past summer I had several multinational clients call to discuss their international operations in Latin America. As a result of this increased interest in Latin America, I was curious to discover what was occurring in Brazil.

Therefore, I went searching for a very accomplished tax lawyer and thus was introduced to the remarkable legal talents of Luis Farinelli. This month's issue is focused on the interest multinational companies have regarding investments in Brazil; as well as an interest in understanding the complicated tax system in Brazil. Mr. Farinelli did an excellent job in discussing these issues as he does so impressively in his fluent English, Portuguese and Spanish.

Additionally, I would like to graciously thank all of our multinational clients for the opportunity to continue to serve you in building your world class tax departments around the world. We want to thank you profoundly for all the international search opportunities you have created for our executive search team which would not have been possible without you coming to [www.etsearch.com](http://www.etsearch.com) for your global headquarters and subsidiaries needs.

All the best,  
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**"A Leader In The Tax Profession"**

**Luis Rogerio Farinelli, Tax Partner**  
**Machado Associados Advogados e Consultores**

Mr. Luis Rogerio Farinelli is Tax Partner with the Machado Associados Advogados e Consultores with offices in Brazil and the United States. This law firm is one of Latin America's most highly recognized and distinguished boutique tax law practices. Mr. Farinelli specializes in a variety of corporate international tax matters including mergers and acquisitions, foreign investments, corporate reorganizations and transfer pricing.

Mr. Farinelli has been with Machado Associados Advogados since 1991. He was previously with Deloitte Touche in Sao Paulo, Brazil from 1986 to 1991.

Mr. Farinelli earned his Law Degree from Universidade Paulista; he earned his Postgraduate Degree in tax law from the Instituto Brasileiro de Estudos Tributarios; he earned his Business Administration Degree from Faculdade Integradas Santana e Sao Paulo; and he earned his Accounting Degree from Faculdade de Administracao e Ciencias Contabeis Tibirca. He is a Certified Public Accountant in Brazil and a member of the Brazilian Bar Association. Mr. Farinelli is also a member of the Executive Committee of Latin American Tax and Legal Network (Lataxnet); a member of the

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International Fiscal Association (IFA); a member of the International Bar Association (IBA); and a member of the National Association of Finance, Business Administration and Accounting Executives (ANEFAC). Mr. Farinelli is also author and co-author of several publications on international and domestic taxation, as well as a speaker in lectures and seminars around the world.

**KJ- Numerous multinationals in the United States have called me over the summer to discuss their business operations in Latin America. What is happening in Brazil now that has created an interest in investment in your country?**

LF- The Olympics and the World Cup have had a very positive impact on Brazil! We have maintained a very consistent activity with clients over these past few years and, in fact, have had an increase in our business and services to clients. Multinational companies are coming to Brazil to buy and create new companies, partner with others or to transfer activities to other countries. It is interesting to note that we have experienced a lot of corporate activity related to infrastructure with some of the biggest Brazilian construction companies. Brazil wants to offer the best in terms of ports, airports, roads and because of this activity we have experienced a very strong movement in terms of investment in Brazil.

**KJ- What can you tell me about Brazilian companies?**

LF- We have more than 800 Brazilian multinational companies doing inbound and outbound investments, just to give you an idea. Brazilian companies are doing investments abroad including direct investments, trading and distribution companies, construction and factories. It is very advantageous for foreign companies to come to Brazil to do joint ventures but they face a complicated and different tax system.

**KJ- What makes the tax system in Brazil so complicated?**

LF- Brazil's corporate tax rate in 2010 is 34%; this includes a basic corporate tax of 15%, a surtax of 10%, and 9% for social contributions on net profits. The tax system in Brazil is complicated because we have a number of different taxes. Every time I speak at a conference about Brazilian taxes I start by showing a group of letters because we have a number of taxes we discuss in terms of letters. For example, we have the IRPJ (Federal Corporate Income Tax); the PIS and COFINS (Federal Contributions levied on Gross Revenue); the CSLL (Federal Social Contribution on Net Income); the IPI (Federal Excise tax); the ICMS (State Taxes on Goods and Services); the ISS (Municipal Services Tax) and Federal Payroll Taxes and Contributions.

We have two different contributions where the tax burden is a very big cost for the companies, they are PIS and COFINS. PIS is for social integration program and COFINS is to finance the social security system. The basis of these contributions is the revenue generated by the company. In principle, independently, if you have delivered the merchandise to your customers or not, at the moment that you encounter the revenue, you must pay tax on the revenue. As a result, this contribution is a very big cost for every company. Another big cost is our indirect tax (ICMS), which is basically a VAT.

**KJ- Do you have a state tax?**

LF- Yes, among others, the ICMS is the most relevant state tax. We have 26 different states in Brazil, plus the Federal District and the ICMS taxation is different depending upon the state. ICMS is a tax over the circulation of merchandise and import of

products and the rate of tax (there are more than 25 different rates in Brazil) vary according to the nature of the product and transaction, the stage of the merchandise, the situation of the goods delivered, where they are delivered, etc...it is a very complex system.

**KJ- How are audits handled in Brazil? What should one expect?**

LF- In Brazil today, 95% of the companies are small and middle-sized yet this 95% represents only 20% of the tax revenue collected by the government. For the 95% of the small/middle-sized companies, Brazil adopted a simple system to collect the tax. However, for the other 5% of the companies they are paying the Brazilian government 80% of the tax revenue. As a result, the government places a lot of pressure on controlling the generation of this tax revenue.

**KJ- Can you tell me how the government controls the tax revenue?**

LF- Right now Brazil has one of the most sophisticated systems to control taxes. Most of the information that is sent to the Federal government is sent electronically through a system called SPED. This system is an electronic system to collect the database of the company. Based upon this system, you are required to send annual reports on your financial and accounting movements; it is like a Big Brother System. The tax authority has all of the accounting and financial information from your company and with this they have the ability to check all of the information on costs, payments and revenues; and they have the ability to send the tax assessment electronically to the taxpayer. As a result, in Brazil we have one of the most sophisticated tax systems to control taxpayers.

**KJ- Can you tell me about your firm?**

LF- Machado Associados started in 1990 as a boutique tax law firm and drew from the international tax and consulting experience of its founder, Jose Maurico Machado. Over the past twenty years, the law practice has grown to over 120 professionals that service tax and business law issues for a wide range of industries. We have experience in tax, tax litigation, mergers and acquisitions, capital markets, foreign investments, labor security law, environmental law, contracts and much more. The firm has broad expertise with very complex domestic and cross border M&A/tax transactions in all type of companies and was already recognized and awarded by International Tax Review in 2008 with the "Americas Awards" in the "Latin America M&A Tax Transaction of the Year" category. In 2009, again at the "Americas Tax Awards", Machado Associados was awarded in the "Latin America M&A Tax Team of the Year" category and nominated in the "Brazilian Tax Litigation Firm of the Year", "Latin America Indirect Tax Firm of the Year" and "Brazilian Tax Firm of the Year" categories. The firm has recently strengthened its already significant Transfer Pricing Area upon the engagement of Ms. Elen Orsini, one of the most important consultants in the Transfer Pricing Area in Brazil (she was participated in the drafting of the Brazilian transfer pricing rules, she was the Head of the Transfer Pricing Inspection Department of the Federal Revenue Service in the years 2000 and 2001 and she trained the tax inspectors of the Federal Revenue Service in relation to transfer pricing inspections).

**KJ- Luis, thank you for you for taking the time to answer our questions on Brazil in this month Tax Intelligence Report. We genuinely appreciate the time you gave to share your experience with us this month.**

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### **Verbal Intelligence**

Brazil is the largest country in South America with a population of more than 192 million people. The largest city in Brazil is San Paolo and the official language is Portuguese. The highest Court in Brazil is the Supreme Federal Tribunal. The Supreme Federal Tribunal was the first court in the world to transmit its sessions on television and also via YouTube. In December 2009, the Supreme Court adopted Twitter to display items on the day planner of the Ministers in order to inform people of the daily actions of the Court and the important decisions made by them.

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