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## VGL NEWS

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### Law 11.727, of June 23 2008: Alters the definition of a Tax Favorable Jurisdiction

Law nº. 11,727, published yesterday, changed, among other tax measures, the definition/concept of what is called a tax favorable jurisdiction. With the enactment of such law a paragraph 4<sup>º</sup> was added into article 24 of Law 9,430 of December 27, 1996, as well new articles 24-a and 24-B. In light of such additions, it shall also be considered as a **tax favorable jurisdiction** the jurisdictions in which their internal laws do not provide access to the information pertaining to the corporate structure of legal entities, its share-holders, or to the identification of the ultimate beneficial owner of income attributable to non-residents.

Moreover, such Law, for transfer pricing rules purposes (the rules relating to prices, costs and interest rates of arts. 18 to 22 of Law 9,430), creates a new concept of what was called a “**privileged tax regime**” (regime fiscal privilegiado), which is the regime that:

I – Does not tax income or tax it at a maximum rate lower than 20% (twenty per cent);

II – Grants tax advantages to non-residents individuals or legal entities:

a) Without requiring the performance of substantial economic activities in that jurisdiction;

b) Conditioned to the non-performance of substantive economic activities in that jurisdiction;

III – Does not tax, or taxes at a maximum rate lower than 20% (twenty per cent), income earned abroad;

IV – Does not provide access to information pertaining to corporate structure, to ownership of rights and assets or to the transactions carried out”

In relation to the effects of such Law 11,727, it is not clear if this new concept is to be applied only in relation to transfer pricing regulations, since article 24 is included in the Law 9,430 chapter that deals with transfer pricing or if such concept is to encompass all other rules and regulations that make use of the original concept of a tax favorable jurisdiction, among of which is the special tax regime available to foreign investors that invest in Brazil through National Monetary Council's Resolution nº, 2,689/00.

The changes become effective as of January 1st, 2009.

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