

**CHANGES IN THE BUSINESS ENVIRONMENT
WITH THE ECONOMIC FREEDOM LAW
LAW No. 13,874, DATED September 20, 2019**

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The reasons for instituting an Economic Freedom Law

Brazil has been known for decades for its immense potential and opportunities, but due to the huge bureaucracy, high tax burden, high legal risks that generate legal insecurity obstacles, it has lost competitiveness to other countries. Additionally, its economy is stagnant, with high rate of unemployment (11.8% in September according to IBGE) and huge public debt (80% of GDP, according to Central Bank of Brazil data).

As of 2019, it assumed a new government - from President Bolsonaro - with right-wing ideological position, opposed to the previous governments, hitherto left and center left.

By the end of 2018, there was a strongly interventionist government in private initiatives. Examples being:

- a) the great obstacles, as well as the time and money spent to obtain sanitary surveillance licenses, environmental licenses, fire brigades, business licenses, patent registration, amongst others.
- b) The rigid and high control of corporate operations, aiming to reduce tax evasion. In this sense, Brazil is one of the countries that has the most stringent controls on companies' electronic invoice operations, numerous highly analytical electronic tax returns, electronic ledgers, employee records and payrolls electronically sent to the Government.
- c) The huge amount of laws regulating business, tax, labor, with a multitude of regulatory rules, plus daily changes, makes it impossible for anyone to keep up with and stay updated.
- d) Confusing laws, full of gaps and conflicts that generate legal insecurity.
- e) Costly fines for non-compliance with the law.
- f) In addition to the high tax cost and labor charges.

Faced with this scenario, the current Government, having as its main reform leader the Minister of Economy, Paulo Guedes, is determined to change this reality, to transform it into a leaner, less interventionist state, with a more dynamic and free economy so that the country can resume its road of development.

In this sense, the Law No. 13,874, dated September 20, 2019, called the Economic Freedom Law, was one of the first measures of the Government, as a way to mark the change of the role of the State in the Brazilian economy and society. Therefore, it has a historical mark of the change of direction of the country by the new Government.

A proof of this is the creation of two new Secretary Offices linked to the Ministry of Economy, the Special Secretary Office for Reduction of Bureaucracy and the Special Secretary's Office for Privatization, Divestment and Markets. With this, it aims to "untie" the barriers of private enterprise, reduce and simplify laws and bureaucracy, reduce state intervention in the private economy, such as through the privatization of state-owned enterprises.

Major Changes and Their Impacts on Business Activity

The law establishes some guiding principles, namely:

- a) Freedom as a guarantee in exercising economic activities;
- b) The good faith of the individual before the public power;
- c) The subsidiary and exceptional intervention of the State over the exercise of economic activities;
- d) Recognition of the vulnerability of the individual to the state.

It has a wide range of application, namely in civil, business, economic, urban, labor, in the exercise of professions, trade, trade boards, public records, traffic, transportation and protection of the environment.

The following summarizes the main changes introduced by this law.

Economic Activity Freedom

- Release of establishments opening hours, including holidays.
- Prohibited to the State to create market reserves that prevent the entry of new domestic and foreign competitors and that favor certain economic or professional groups.
- End of business license for low risk companies, as provided by law.
- In the case of requests for public registrations, licenses to release economic activity, if no response is given within the stipulated period, the granting of registration will be tacit and automatic.

Reduction of Business Bureaucracy

- Acceptance of digital documents, with same probative value as the original document.
- Enables public electronic registration, such as the registration of legal entities, real estate registration and the civil registration.
- Sole proprietorship no longer requires the minimum value of share capital. EIRELI requires a minimum of 100 minimum wages.
- Registration for opening and closing a company - the approval will be automatic, unless there is a pending matter that makes the process impossible.
- Authentication of documents - no need for authentication when the lawyer or accountant of the interested party declares, under their personal responsibility, the authenticity of the copy of the document.
- The Production and Inventory Control Electronic Book (K Block) will be extinguished.

About the Economic Group and Limitations on Disregard of Legal Entities

- In Brazil it is very common to disregard the legal entity in cases of judicial process to transfer the responsibility to other companies of the group or directly to the partners.
- The law defined more clearly the concept of deviation of purpose and patrimonial confusion, situations of applicability of the disregard of the legal entity.
- It makes clear that the mere existence of an economic group does not authorize the disregard of the legal entity.

Reduction of Bureaucracy of Labor Laws

- Replacement of employment records booklet to an electronic booklet.
- Journey control registration, waived for companies up to 20 employees.
- e-Social (currently monthly sent after Government detailed employee registration and payroll information) - will be replaced by a simpler system.

Other Significant Changes

- Extinguishes the Brazilian Sovereign Fund, created in December 2008.
- Transformation of public records into electronic media. These include Civil Registry Offices, Legal Entities, Registration of Real State, Deed and Documents and those relating to copyright.
- Creates the National Finance Committee with the power to edit summary of federal taxes.
- Several changes in the rules of investment fund activities.

Considerations and Trends

The year of 2019 marked the beginning of the change of direction of the state and private enterprise model. However, the changing effects are not immediately visible, they are rather like the slow yawing of a large ship at sea. During the yawing process, there is a huge effort to make the changes and little noticeable effects. However, within two to three years it is possible that we will have a new Brazil, lighter, more agile, more flexible, better suited to its youthful spirit.

At least the new Government focuses on what is the desire of unanimity of national and international entrepreneurs, to simplify, reduce bureaucracy and reduce the “Brazil cost”. The Economic Freedom Law is one of the first released by the Government. The following are also highlighted:

- a) the approval of the Social Security Reform;
- b) the issue of another Provisional Measure, known as the Second Labor Reform (the first one that took place in November 2017).
- c) The Constitutional Amendment Proposal of the new Federative Pact, already in the National Congress.

Other reforms that the Government intends to carry out in the short term are the Tax Reform (the most expected by everyone) and the Administrative Reform that aims to reduce the public machine, in other words, the expenses with the civil service.

The Government has held several seminars and meetings to publicize and engage society in the changes. To this end, it has recently launched the program “Mobilization for Employment and Productivity” (www.mobilizabrasil.economia.gov.br).

Along with the legislative reforms, there is the policy of reducing interest rates, controlling inflation, privatization and decentralization and the insertion of the Brazilian economy in the global plan. Paulo Guedes bets on the double growth of the Brazilian economy by 2020, saying that the Brazilian economy is already growing “well above” 1% in the margin and stressed that the acceleration of activity, coupled with low interest rates, will “trigger” investments of long term in the country (Exame, November 22, 2019).

Given this set of measures aimed at transforming the business environment, optimism is slowly resuming and there are signs of a resumption of economic growth in recent months.

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