



BANKING & FINANCE and TAX | Bank Secrecy – New Rules

In accordance with Law 36/2010 (“**Law 36/2010**”) and Law 37/2010 (“**Law 37/2010**”), both of 2 September 2010, some changes have been introduced in relation to Bank Secrecy rules.

Law 36/2010 introduces certain amendments to the General Regime of Credit Institutions and Financial Companies (“RGICSF”) by including, in this diploma, the setting up, in the Bank of Portugal’s systems, of a base of bank accounts that exist in the banking system. Only judiciary authorities in the context of a criminal process can have access to such base of accounts.

The information to be included in the system is restricted and must be provided to the Bank of Portugal in accordance with the procedure described in the new version of art. 79.º, n.º 3, paragraph a) and b) of the RGICSF. Within 3 months upon this rule coming into force, all entities authorized to open bank accounts must send to the Bank of Portugal the required information for this purpose, including the numbers of the accounts and the corresponding beneficiaries.

On the other hand, Law 37/2010 introduced new changes to the Portuguese Tax General Law (“LGT”) in the context of the derogation of bank secrecy. The aforementioned diploma adds a new circumstance that enables the access, by the tax administration, to all information and bank related documents of a given account holder, without the latter’s express consent. For purposes of the LGT, a bank related document shall be considered to be any document or registry, regardless of its support, in which transactions executed by credit institutions or financial companies in the context of their respective activity are recorded, including such which relate to transactions executed by means of credit card.

Additionally, with the new law, the tax administration is now to provide the State Assembly with information on the proceedings related to the derogation of bank secrecy, for statistical purposes. Such information shall be provided with the presentation of the annual State’s Budget law proposal.

Finally, Law 37/2010 introduced amendments to the object of Decree-Law 62/2005, of 11 March (which transposed into the Portuguese jurisdiction the EU Savings Directive), in order to extend its application to the residents in the national territory.

