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Law 12,101, of November, 27th, 2009 - Certification of Philanthropic Social Assistance Entities

CHAPTER I - PRELIMINARY PROVISIONS

Art. 1. The certification of social assistance charities and the exemption for contributions to the social security will be granted to private law legal entities, nonprofit, recognized as social assistance charities aiming to provide services in the areas of social assistance, health or education, and meeting the provisions of this Law.

Sole Paragraph. (VETOED)

CHAPTER II - CERTIFICATION

Art. 3. The certification or its renewal will be given to the charity that demonstrates in the fiscal year preceding the application, being observed the minimum period of twelve (12) months of the entity's constitution, compliance with the provisions of Sections I, II, III and IV of this chapter, according to its performance fields and meeting cumulatively the following requirements:

I - be constituted as a legal entity under the caput of art. 1; and

II - provide in its constitutive acts, in case of dissolution or termination, the allocation of any remaining assets to congener nonprofit entities or to public entities.

Sole Paragraph. The minimum period of fulfillment of the requirements referred to in this article may be reduced if the entity renders services upon a covenant or a similar instrument with the Health System (SUS) or the Social Assistance System (SUAS), in case of local need attested by the manager of the correspondent system.

CHAPTER IV - EXEMPTION

Section I - The Requirements

Art. 29. The charity certified according to Chapter II will be entitled to the exemption concerning the contributions referred to in arts. 22 and 23 of Law 8212, of July 24th, 1991, since cumulatively meeting the following requirements:

I - its directors, counselors, partners, founders or benefactors do not receive remuneration, advantages or benefits, directly or indirectly, in any case and title, in view of the competencies, functions or activities assigned to them by its constitutive acts;

II – invest its incomes, assets and any eventual surplus entirely on national territory, for the maintenance and development of its institutional objectives;

III – to present a negative certificate, or a positive certificate with a negative effect, of debits regarding taxes administered by the Federal Revenue of Brazil and a certificate of regularity of the Government Severance Indemnity Fund for Employees (FGTS);

IV – to maintain regular bookkeeping recording incomes and expenditures and the investment in gratuity, in a segregated manner, according to rules issued by the Federal Accounting Council;

V - do not distribute results, dividends, bonuses, shares or parts of its assets, in any case or pretext;

VI – to keep in good order for a period of ten (10) years, as of the date of issuance, documents showing the origin and application of its resources and those relating to acts or transactions that imply the modification of its patrimonial situation;

VII – to comply with all ancillary obligations set out in tax legislation;

VIII – to present accounting and financial statements duly assessed by independent auditor legally qualified by the Regional Accounting Councils when the annual gross revenue exceeds the limits set by Supplementary Law 123, of December 14th, 2006.

Art. 30. The exemption referred to in this law is not extended to the entity with its own legal personality constituted and maintained by the entity to which the tax-exemption was granted.