

*Brazilian
Taxes for
Legal Entities
2021*

What you need to know



Arnaud Bleuez

« Brazilian Taxes for Legal Entities »

What you need to know

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Content

Sumário

DISCLAIMER	7
INTRODUCTION.....	8
CHAPTER 1 – GENERAL INFORMATION ON THE BRAZILIAN TAX SYSTEM	11
<i>LEVIES</i>	<i>13</i>
<i>TAX AUTHORITIES</i>	<i>15</i>
<i>TAX PENALTIES.....</i>	<i>18</i>
<i>TAX DISPUTE BEFORE THE COURTS</i>	<i>21</i>
<i>TAX AMNESTY</i>	<i>24</i>
<i>BNDES FINANCING</i>	<i>26</i>
<i>FOREIGN EXCHANGE CONTROL</i>	<i>28</i>
<i>INTERNATIONAL TAX TREATIES</i>	<i>31</i>
<i>ROYALTIES AND TECHNICAL SERVICE FEES</i>	<i>32</i>
<i>CONTRIBUTION CIDE</i>	<i>35</i>
<i>PROFITS & DIVIDENDS.....</i>	<i>37</i>
<i>WORLDWIDE OR TERRITORIAL REGIME</i>	<i>38</i>
<i>INTEREST INCOME.....</i>	<i>38</i>
<i>SPECIAL REGIMES</i>	<i>39</i>
<i>TRANSFER PRICING</i>	<i>40</i>
<i>R&D CREDITS AND OTHER TAX INCENTIVES FOR INVESTMENT.....</i>	<i>44</i>
<i>INCOME TAX</i>	<i>46</i>
<i>OTHER TAXES ON PERSONAL INCOME</i>	<i>48</i>
<i>INHERITANCE AND WEALTH</i>	<i>49</i>
 CHAPTER 2 - BUSINESS CREATION AND LEGAL OBLIGATIONS.....	 50
<i>BUSINESS CREATION</i>	<i>50</i>
<i>LIST OF LEGAL FORMS.....</i>	<i>56</i>
<i>EI / MEI</i>	<i>56</i>
<i>EIRELI (INDIVIDUAL COMPANY WITH LIMITED RESPONSIBILITY),</i>	<i>60</i>
<i>THE LTD COMPANY ("LTDA. ")</i>	<i>62</i>
<i>THE PUBLIC LIMITED COMPANY ("SA")</i>	<i>67</i>
<i>COMPARISON OF LTDA. AND S.A.</i>	<i>69</i>
<i>BRANCH</i>	<i>71</i>
<i>JOINT VENTURES</i>	<i>72</i>
<i>THE TRADEMARK LAW</i>	<i>72</i>
<i>MAIN ACCOUNTING DOCUMENTS REQUIRED.....</i>	<i>74</i>
<i>METHODS OF VALUATION OF ASSETS AND LIABILITIES</i>	<i>80</i>
<i>INTANGIBLES ASSETS</i>	<i>81</i>

AUDITORS AND IASB	81
ACCOUNTING NORMS	83
NOTA FISCAL	83
SPED IN BRAZIL.....	86
 CHAPTER 3 - ISS - TAX ON SERVICES	 88
SCOPE	88
TAXPAYER AND LIABLE	90
RATE, BASIS FOR CALCULATION AND DEADLINE	91
RECOGNITION OF ISS	92
 CHAPTER 4 - ICMS - TAX ON THE MOVEMENT OF GOODS AND SERVICES, ON TRANSPORTATION AND COMMUNICATION	 95
SCOPE	95
TAXPAYER AND LIABILITY	96
BASIS FOR CALCULATION, RATE, AND DEADLINES.....	97
'SUBSTITUÇAO TRIBUTARIA'	101
RECOGNITION FOR ICMS	103
'DEFERRED' ICMS	105
 CHAPTER 5 - IPI - TAX ON INDUSTRIAL PRODUCTS	 106
SCOPE	106
IPI TAXPAYERS	106
BASIS FOR CALCULATION AND RATE	106
RECOGNITION FOR IPI	108
 CHAPTER 6 - PROVISION FOR DOUBTFUL CLIENTS.....	 111
OVERVIEW	111
METHODOLOGY	111
ACCOUNTING	111
TAX ASPECTS	112
 CHAPTER 7 - VALUATION OF STOCKS - ACCOUNTING AND TAX ASPECTS.....	 114
OVERVIEW	114
INDUSTRIAL COMPANY	114
NEED FOR A COST MANAGEMENT IT SYSTEM	115
IMPACT OF ICMS AND IPI ON COSTS OF PROD. AND VALUATION OF STOCKS.....	116
TAX REGULATIONS FOR CALCULATING THE VALUE OF STOCKS OF FINISHED AND IN PROCESS PRODUCTS.....	117
 CHAPTER 8 - SALARIES AND BENEFITS - INSS	 119
OVERVIEW	119
REGULATORY	122

THE FGTS.....	122
WORK TIMES.....	124
LEAVE.....	124
WAGES.....	125
TAXES AND CHARGES ON LABOUR.....	126
RETIREMENT AND DISABILITY	130
TAX OPTIMISATION ON SOCIAL CHARGES AND INCOME TAX	131
E-SOCIAL	135
 CHAPTER 9 – CORPORATE TAX.....	 136
OVERVIEW	136
"SIMPLE" METHOD (SIMPLES)	137
"ESTIMATED" METHOD (PRESUMIDO):	143
"ACTUAL" PROFIT METHOD (REAL):.....	145
CARRY FORWARD OF LOSSES.....	149
CHOOSING BETWEEN REAL AND PRESUMIDO METHOD:.....	150
"ARBITRARY" METHOD (ARBITRARIO).....	154
 CHAPTER 10 - COFINS AND PIS.....	 156
OVERVIEW	156
RATE	156
CALCULATION AND PAYMENT	157
TAX OPTIMIZATION.....	160
 CHAPTER 11 – WITHHOLDING TAXES ON INVOICES	 162
OVERVIEW	162
CORPORATE TAX WITHHELD	162
PIS, COFINS, AND CSLL TAX WITHHELD	167
DIRF (WITHHOLDING TAXES ANNUAL STATEMENT)	171
 CHAPTER 12 – IOF	 173
GENERAL INFORMATION ON THE IOF	173
SCOPE OF IOF	173
THE DIFFERENT RATES OF IOF	175
CALCULATION OF IOF	176
DEADLINE FOR PAYING IOF.....	177
HOW DO I SEND MONEY TO BRAZIL?	177
 CHAPTER 13 - EXPORTS TO BRAZIL.....	 179
COMMON NOMENCLATURE OF MERCOSUR	180
RADAR	180
COMMON EXTERNAL TARIFF OF MERCOSUR	181
EXCEPTIONS EX-TARIFARIO	183

<i>SUSPENSION REGIME</i>	184
<i>OTHER TAXES INCURRED BY IMPORTS</i>	185
<i>PIS COFINS ON IMPORTS</i>	186
<i>THE SIMULATOR FOR CALCULATION OF TAXES ON EXPORTATION TO BRAZIL</i>	188
<i>EXCEPTIONS</i>	189
<i>DRAWBACK</i>	191
<i>EXPORTS OF SERVICES TO BRAZIL</i>	191
 CHAPTER 14 - EXPORTING FROM BRAZIL	 193
<i>TAXES ON EXPORTATIONS</i>	193
<i>RATE AND BASIS FOR CALCULATION</i>	193
<i>AID FOR EXPORTING</i>	193
<i>DRAWBACK</i>	195
<i>PIS AND COFINS REFUND</i>	195
<i>GSP TREATMENT</i>	196
<i>APPENDICES</i>	198
 APPENDIX 1 - MACROECONOMICS INFO	 199
 APPENDIX 2 – ISS RATE	 202
 APPENDIX 3 – ICMS RATE	 207
 APPENDIX 4 – IPI RATE	 211
 APPENDIX 5 – SERVICES SUBJECT TO WITHHOLDING TAX	 212
 APPENDIX 6 – NCM EXTRACT	 214
 APPENDIX 7 - INFORMATION ON THE NCM	 215
 APPENDIX 8– TEC EXTRACT	 221
 APPENDIX 9– SIMULATOR	 222
 APPENDIX 10 - GLOSSARY	 223
 APPENDIX 11–SOURCES OF INFORMATION	 225

DISCLAIMER

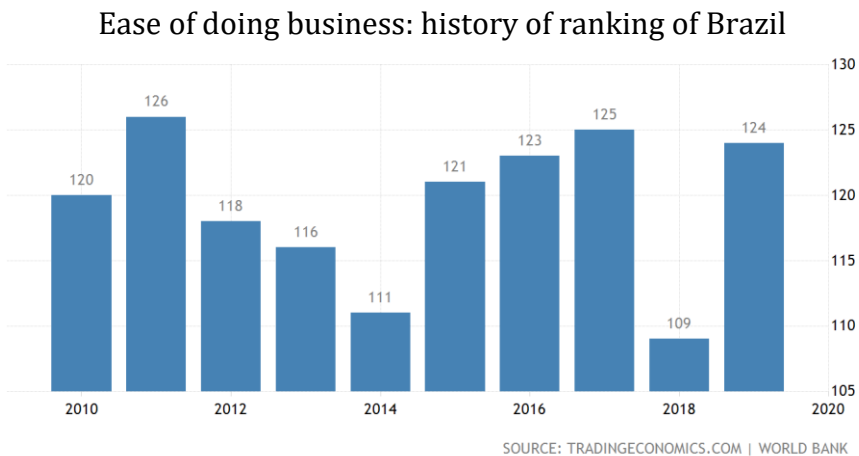
Every effort has been made to ensure that the information contained in this publication is correct, updated, and clearly presented. Neither the author nor the publisher is accountable for the results of actions taken on the basis of information contained in this book, or for possible errors and omissions.

This book does not render legal, accounting or tax advice. Readers must refer to specialist firms before making any decision.

The topics presented include even more exceptions than there are Federal States, which have strong prerogatives on taxation. The information is sometimes general, and some details have been deliberately omitted. When the existence of exceptions is discussed in this book, it is necessary to refer to the laws and regulations promulgated by the State or the Municipality where the establishment is located.

INTRODUCTION

Brazil with its tremendous economic potential is also a complex country where doing business can prove to be difficult. In 2020, Brazil is ranked by the IMF at the 124th position (out of a total of 190 countries) on “Ease of doing business” (rating was 109th in 2019 and 125th in 2018). The assessment on taxes is even worse: 184th position.



Why brazilian taxes are among the world’s most tricky? Four main explanations for this:

- The organization is complex. It’s a Federal Republic; outside Brasilia (Federal District), there are 26 Federal States, and inside these States there are thousands of Municipalities. They all have strong powers of taxation.
- As a consequence of this very large number of actors on this topic, there are countless exceptions and many litigations (among other things, because States compete amongst each other to maximize budget income; and so do Municipalities).

- Rules, methods of calculation, and above all rates of taxes are constantly changing. The Brazilian industrial lobby (among its members are many international carmakers with factories on Brazilian soil), the exchange rate of the Brazilian currency against the USD, the growth of the economy, and many other indicators are the reasons of permanent changes in taxation.
- The Brazilian government has a protectionist policy. Taxes on importations can be very high; and on top of that, administrative procedures and the calculation of these taxes are exceptionally tricky.

“Brazilian taxes: what you need to know” is a book outlining accounting principles and the main taxes in force in Brazil.

It contains a wealth of information, from macroeconomic elements such as debt levels, growth rates of GDP or the income tax in Brazil, to practical techniques such as methods of calculation of taxes, be they federal, state or local, or information on employer costs and Social Security contribution.

It provides numerical examples as well as cases of tax optimization.

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Brazil and its 26 Federal States



CHAPTER 1 – GENERAL INFORMATION ON THE BRAZILIAN TAX SYSTEM

Mainly because of its decentralized organization, the Brazilian tax system is particularly complex and is the subject of much criticism in business circles. It is ranked the last in Latin America, as classified by the Latin Business Chronicle.

The complexity of the system means it is virtually impossible to determine with precision the amount of tax that exists in the country. It is estimated that, in the federal, state and local spheres, the country now has at least 60 different taxes and over 90 accessory obligations creating costs necessary for compliance - that is, the costs companies must bear in order to comply with legislation. There is a saying that the only thing worse than paying taxes, is paying to pay taxes.

We should remember that ancillary obligations – such as tax bookkeeping, digital accounting bookkeeping and digital tax bookkeeping, and VAT on sales and certain services/excise tax – are all linked to the Public Digital Bookkeeping System (SPED), adding complications. Even more obligations have been created, such as the Transition Fiscal Accounting Control, the Declaration of Health and Medical Services, and the Information Report on Real Estate Activities.

It is interesting to note that Brazil is one of the few countries where there is no tax called VAT. However, there is a plethora of taxes, particularly two of them similar to value-added taxes (ICMS and IPI).

The Brazilian tax system is still suited for a hyperinflation economy; thus, the deadlines for payments of any kind are always short. Similarly, delays are quickly and systematically subject to penalties, which are themselves subject to the statutory interest rate (Selic).

Altogether, international comparisons show that the burden of taxes in Brazil is very significant, and that the time spent on taxation is unheard-of!

Time to comply with tax legislation, in hours

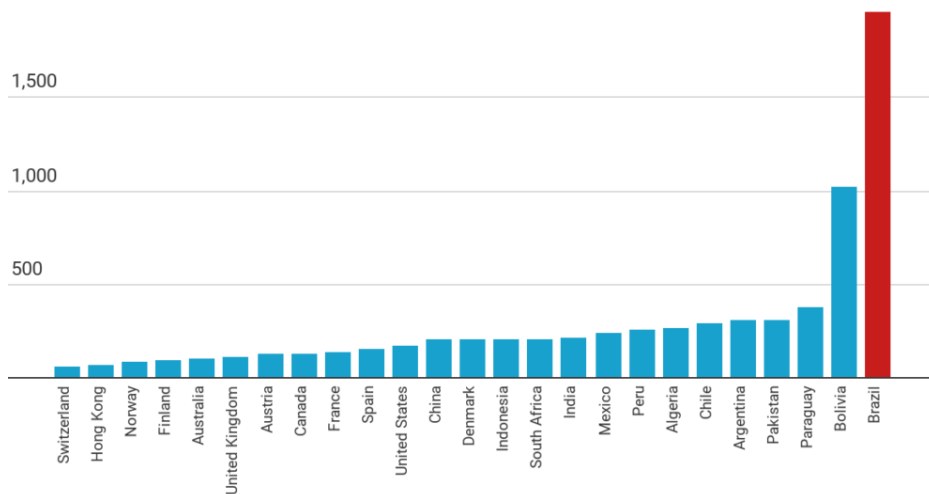


Chart: The Brazilian Report • Source: World Bank (selected countries) • [Get the data](#) • Created with [Datawrapper](#)

Brazil is well-known for its many boom-and-bust cycles. After the crisis of the year 2015-2016 – this crisis caused the economy to shrink by 7.4% - the COVID hit Brazil: the GDP decreased by 4,1% in 2020.

At the date of edition of this book – April 2021 - GDP in 2021 is expected to increase by 3,17%.

GDP from 2012 till 2020 (before COVID19)



SOURCE: TRADINGECONOMICS.COM | INSTITUTO BRASILEIRO DE GEOGRAFIA E ESTATÍSTICA (IBGE)

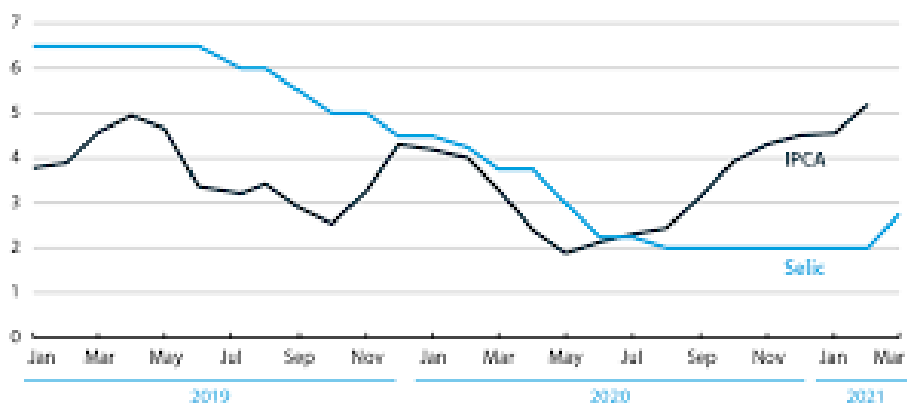
Furthermore, and although inflation (IPCA) has been reduced to a *reasonable* rate (4,3% in 2019, and 4.52% in 2020), it should be noted that for Companies and Individuals, the real interest rate is high, among the highest in the world.

In 2020 and 2021, the BRL has lost ground to the USD with the importation of inflation as a consequence.

The Interbank interest rate (Selic) was set by the Central Bank at 2,75% in April 2021 (it was at 14,25% in 2016). The norm in Brazil was to have Interbank interest rate *above* inflation; this has changed in 2020.

Inflation and SELIC under BOLSONARO (till 03/2021):

Brazil: Year-on-year inflation and interest rates under Bolsonaro* (%)



*President Jair Bolsonaro took office on January 1, 2019

Source: IBGE and Brazilian Central Bank

The unemployment has decreased from 13,1% in January 2018 to 11,2% in December 2019, but has reached 14,2% end of March 2021.

LEVIES

In 2020 – due to COVID - the weight of taxes on GDP has fallen from 33.7% to 31,6% (source: estadao.com), a moderate figure by Western standards, but a marked increase over the previous 18 years, and still above other countries of South America.

Taxes over GDP: comparison in South America



In Brazil, gross public debt is 102.3% of GDP in 2020 according to the IMF projection, a significant growth compared to 89.5% the previous year. According to the Brazilian Central Bank, gross debt reached 88.8% of GDP in August 2020. But the IMF and the government use different criteria in the calculation, which prevents comparisons.

Some macroeconomic information can be found in Appendix 1- Themes:

1. Main exportations,
2. Trade between Europe and Brazil,
3. Currency: BRL vs USD under Bolsonaro
4. International ranking for exports and imports,

TAX AUTHORITIES

The division of tax authorities between the Federation, the 26 Federal States and the Municipalities is as follows:

The Federation has the authority on:

- Income tax (IRPF),
- Corporate tax (IRPJ + CSLL),
- Industrialized products tax (IPI),
- Credit, exchange, stock market, insurances (IOF),
- Foreign trade tax (imports, exports),
- Rural land tax (ITR),
- Personal assets (IGF),
- Employer contributions (INSS),
- Social contributions (PIS and COFINS),
- Compulsory Provident Fund (FGTS),
- Contribution to Interventions in the Economic Domain (CIDE).

The Federal States have authority on:

- Services, transport, communication and movement of goods tax (ICMS),
- Annual vehicle license (IPVA),
- Inheritance tax (ITCMD),

The Municipalities have authority on:

- Tax on services (ISS),
- Urban land sale tax (IPTU),
- Tax on real estate and related rights (ITBI).

The list below (“Contribution of taxes to the Federal Budget”) gives the share in the budget of each tax authority; and a detail by tax/contribution.

Contribution of taxes to the Federal Budget (Brasilia, 27 States, and 5564 Municipalities)		2018 % PIB
Total taxes		33,7%
Taxes of the Union (Federal State)		23,4%
IRRF (Income Tax)		3,6%
FGTS (Unemployment benefits)		2,0%
IOF (Tax on Financial Operations)		0,8%
Cide (Tax on petrol)		0,1%
Other federal taxes		2,8%
IPI (Tax on Industrial Products)		1,0%
PIS and Cofins (Tax on revenue)		4,3%
INSS (Social Security)		6,0%
IRPJ and CSLL (Corporate Tax)		2,8%
Taxes of the 27 States		8,3%
IPVA (taxes on cars)		0,6%
ICMS (Tax on commerce and trade)		6,7%
Others		1,0%
Taxes of Municipalities		2,0%
IPTU (Taxes on properties)		0,5%
ISS (Taxes on Services)		1,0%
Others		0,5%

This list has the merit of presenting you with critical information: the control of taxes by the different tax authorities. It is important for a company to know whether a tax is controlled by the Federation, the Federal States or the Municipalities. Indeed, a company subject to the IPI (which appears under the heading 'Industrialized Products Tax' in the "Federal" category) will not need to choose among states on the basis of this tax. Since this tax is federal, it is the same throughout the entire Brazilian territory.

On the other hand, ICMS appears in the "State" category. Thus, the

rate of this tax will vary from state to state (26 states plus the Federal District). A foreign company looking for the best location for its implantation should take into account the rates of ICMS in all the different states.

[Be aware that Federal States redistribute 25% of ICMS revenue to the Municipalities, according to a 'Participation Index']

Similarly, as the rate of ISS is controlled by Municipalities, the choice of location of the implantation must be decided upon, on the basis of the rates offered by Municipalities.

There have been various technological innovations since the internet revolution – such as downloading, streaming, software as a service, the use of robots, and the performance of activities on the blockchain platform. The world has changed and become virtual. The economy has become dominated by companies in the technology sector (Google, Amazon, Apple, Facebook and Microsoft), facilitating the emergence of unimaginable business arrangements. The unprecedented intangibility of these companies has made physical presence in a particular jurisdiction unnecessary. As such, transactions have started to occur remotely. The current legal system is full of peculiarities, and is neither prepared nor structured to adequately handle taxation of wealth in this new, virtual world.

This ultimately results in an intense conflict for authority – one in which states and municipalities fight to bring these new technologies under their purview of taxation. For example, not too long ago states and municipalities discussed the taxation of internet providers. The states claimed these were telecoms services, subject to ICMS; the municipalities argued that they were data processing services, subject to municipal service tax (ISS). Case law has not set a precedent for either argument, and there are no specific rules that apply to this matter.

Another example is the recent publication of different rules about the taxation of streaming. This caused states (Cooperation Agreement ICMS 106/17) and municipalities (Supplementary Law

157/16) to each consider that they had authority to tax the streaming services. Taxpayers were thus doubly taxed for their streaming activities.

This situation of legislative uncertainty about the rules (and taxes) applicable to these new technologies, resulting from a conflict of tax laws or the absence of clear regulatory standards that define them, leave taxpayers baffled over how to pay.

Fortunately, at a political level, there does appear to be some concern over these issues, which ultimately damage the Brazilian economy and chase foreign investors away. Most current political speeches clearly express desire for tax reform.

The new government took office in January 2019. President Jair Bolsonaro and his top financial minister Paulo Guedes have thus far outlined a tax plan designed to spur the economy by reducing income taxes for businesses to a flat 20 percent corporate tax rate. Brazil's current corporate tax rate is 34 percent. Such a drastic cut would come in response to a similar move in the U.S., which lowered its corporate tax rate to 21 percent from 35 percent in 2017 (since then J. Biden has announced an increase). The measure could make Brazilian companies more competitive.

TAX PENALTIES

The penalties for non-compliance with tax obligations are set out in federal, state and municipal legislation.

The standard penalty for late collection of federal taxes, including corporate income taxes, is 0.33% per day, with a cap of 20% for late payments. Delayed payments are also subject to interest calculated according to a federal basic interest rate.

There are two types of penalties that can be applied by the tax authorities if they eventually issue an Infraction Notice against the taxpayer:

- (i) a 75 per cent default penalty; or

- (ii) a 150 per cent aggravated penalty.

The 75 per cent penalty is applied in most of the cases where the tax authorities understand that the taxpayer did not act in willful misconduct, fraud or simulation. Conversely, the 150 per cent aggravated penalty will be imposed if the tax authorities understand that the taxpayer did practice acts that are to be treated as willful misconduct, fraud or simulation.

Under Brazilian tax law, an aggravated penalty of 150 per cent can only be imposed in cases where an evident intent of fraud is proved, that is, when the tax authorities are able to establish unequivocally the taxpayer's purpose of deluding, hiding from or deceiving them.

This penalty can be increased by 50% if, during an audit, the taxpayer does not timely respond to the auditor's demands for clarifications or requests for certain documents. In such cases, the penalty may thus total 112.5% or 225% of the amount of tax due, depending on whether evasion, fraud or misconduct is also established.

The tax authorities may also apply penalties for non-compliance with tax reporting obligations, even if all taxes have been fully paid. The penalty for untimely filing of most federal tax returns is R\$1,500 for each month of delay. In case of omitted, incomplete or inaccurate information in tax returns, taxpayers are subject to a 3% penalty on the value of the irregular commercial or financial transaction.

Although tax liability is, in principle, limited to the legal entity itself, managers and quota holders or shareholders may be held jointly liable for a company's tax liabilities in the event of its irregular dissolution, actions that exceed the scope of their authority or actions that are contrary to the law or company bylaws. In practice, in cases involving allegations of evasion, fraud or misconduct, the tax authorities commonly order tax assessments of both the legal entity and its managers and quota holders or shareholders for the purposes of determining applicable taxes and penalties.

There is a voluntary disclosure procedure: if the taxpayer acknowledges any debts prior to any action being taken by the tax authorities and settles these before any Notice is issued, then it will be subject to a penalty equivalent to 20 per cent on the claimed taxes, added to SELIC interest.

If an Infraction Notice is issued, the following options are available:

- (i) settling the Notice within 30 days, with a 50 per cent discount on whatever penalty was applied; or
- (ii) filing an objection to the Infraction Notice, outlining the reasons why the Notice should be cancelled and then officially initiating the litigation in the tax administrative sphere.

If the notice is settled within 30 days with a 50 per cent discount on the penalty applied, no litigation in the administrative sphere will be permitted. Nonetheless, the taxpayer will still have the option of filing a lawsuit in a court of law seeking to receive back the amounts paid in settlement of the Infraction Notice.

Any possible charges accrue interest, which is calculated, at the federal level, according to the SELIC rate.

Tax disputes in Brazil are innumerable: pursuant to public information made available in databases maintained by the Brazilian IRS, a figure of approximately 1.84 trillion reais in infraction notices is being discussed, being 1,125.29 billion reais still under discussion in the administrative level of review and 339.39 billion reais still under discussion in the judicial level of review.

It is legally possible to cooperate with the tax authorities in other countries. Brazil has entered into double taxation conventions and treaties for exchange of tax information (including the Foreign Account Tax Compliance Act (FATCA) and the OECD's Common Reporting Standard (CRS)).

TAX DISPUTE BEFORE THE COURTS

Tax claims may be started either by the taxpayer or by the tax authorities (this latter case usually involving an assessment), and there are two main levels where taxpayers may discuss tax matters:

- (i) the administrative level of review; and
- (ii) the judicial level of review.

Both have a similar structure, grounded in three different levels of review.

In the administrative level, after the claim has been submitted, there is a first level-decision issued locally by the Federal Revenue Chief Officer (if the dispute derives from an assessment, the taxpayer may present an objection, where it will appoint its arguments and evidences). Once the first-level decision is issued, an appeal (called Voluntary Appeal) may be filed by the party, requesting its case to be reviewed by the Tax Administrative Appeals Council (CARF), at the second level within the administrative sphere.

Each Judgment Chamber in the Tax Administrative Appeals Council is made up of six members, three being appointed by the tax authorities and three by the taxpayers' associations. If a case is tied, it will be deemed to have been ruled in favour of the government.

There is a third level in the administrative sphere, which is the Tax Appeals Superior Chamber (CSRF), but it will only review a case if the party (either the taxpayer or the government, as the case may be) is able to show that a conflicting decision was handed down on the same subject by the Tax Administrative Appeals Council, either by the same Chamber or by a different one.

As a result, if the Tax Administrative Appeals Council rules the case against the taxpayer, and the taxpayer is able to find a divergent decision on the same subject, it will be allowed to file a further appeal (called a Special Appeal) to the Tax Appeals Superior Chamber. The contrary is also true - tax authorities can also file a Special Appeal to

the Tax Appeals Superior Chamber if the case is ruled in favour of the taxpayer by the Tax Administrative Appeals Council.

Each chamber of the Tax Appeals Superior Chamber is made up of eight members, four being appointed by the tax authorities and four by the taxpayers. As in the Tax Administrative Appeals Council, a tie result in the Tax Appeals Superior Chamber is deemed to be in favour of the government.

It is important to point out that the taxpayer cannot litigate the same case at the same time in both the administrative and judicial spheres. In practice, the judicial sphere will always be an open option for the taxpayer, whereas the administrative sphere will only review a case of the taxpayer that has not initiated any judicial discussion in the same regard.

It is also worth mentioning that if a final decision is issued in favour of the taxpayer in the administrative sphere, the case will be over, because, except in some very special circumstances, the tax authorities will not be allowed to take the case to the judiciary to be reviewed. In contrast, if a final decision is handed down against the taxpayer in the administrative sphere, the taxpayer will still have the option of going to the judiciary and filing a lawsuit claiming for its case to be further reviewed, either on the same arguments or different ones.

In turn, the judicial level of review is also made up of three levels:

- (i) first-degree court of law;
- (ii) Appeals Court; and
- (iii) the Superior Court of Justice (STJ) and the Federal Supreme Court (STF).

In the first-degree court of law, a single judge will examine and rule on the case. In the event of an unfavourable decision, the party (taxpayer or the tax authorities) will be allowed to file an appeal to the Appeals Court, which is made up of three judges. In the case of

another unfavourable decision, the party may file another appeal to the STJ and the STF.

While the STJ will review every case where the appealed decision had allegedly violated a law, the STF will only do so if it deems the case to be of general interest to the country and society.

At the administrative level of review, each party bears its own costs. At the judicial level of review, in turn, the defeated party may be required to reimburse dispute costs, depending on the type of action.

There is no defined time frame for tax trials. On average, an administrative tax review takes from five to seven years, while a judicial dispute may take from eight to 12 years including the final avenues of review (Superior Court of Justice/Federal Supreme Court).

At the administrative level of review, there is no formal obligation to have an attorney for filing defences, appeals and presenting the arguments before CARF/CSRF, although it is rather common and even recommended, due to the technicalities usually involved in tax cases.

On the other hand, for judicial claims it is mandatory to have a lawyer duly enrolled with the Brazilian Bar. If the taxpayer is not able to afford legal representation, it may request free judicial assistance (although not common in tax disputes): Brazilian legislation (Federal Law No. 1,060 of 1950) and Special Court's Ruling No. 481 (STJ) allow the taxpayer to be represented by a public attorney, provided that the absence of financial conditions is proved.

One very important difference between the judicial and the administrative spheres is that, in the administrative level, the taxpayer is allowed to litigate the case without having to present guarantees or deposit the disputed amounts. In contrast, if an unfavourable decision is handed down at any stage in the judicial sphere, the taxpayer will be required to:

- (i) make a deposit in court; or
- (ii) present guarantees covering the whole amount of the disputed tax debt;

Otherwise, the tax authorities are able to initiate the execution of the disputed amounts, regardless of whether the litigation in the judicial sphere is over yet (source: Pinheiro Neto Advogados).

TAX AMNESTY

Tax amnesty in Brazil is common place. In order to collect unpaid taxes, federal government, state and local authorities issue Tax Amnesty programs. Brazil's congress, under pressure from business associations, has since 2000 approved five fiscal recovery programs. Under these programs, companies with tax debts have received major reductions in fines and penalties if they agreed to pay their debts over a set time period.

One of the last major amnesty is the tax amnesty initiative introduced by PM 783 (PERT) on 31 May 2017 that allows taxpayers to settle their outstanding federal tax liabilities.

Under the 1980 law that set Brazil's tax collection rules, companies can appeal assessments directly to the revenue service's administrative appeals courts, where cases can drag on for four to five years. If a company loses, it can then take its case to the judicial system, which adds more years to the process. Aware of this, companies often appeal their assessments for as long as possible.

In June of 2017, the revenue service admitted it is fighting a losing battle, pointing out that the finance ministry has only 2,000 prosecutors to deal with 4.5 million companies and individuals with tax debts. The \$526 billion in uncollected tax amounts to half the nation's public debt.

After years of fighting and losing battles with individuals and companies to collect tax debts, Brazil is turning to a new collection tactic: public shaming.

The country's revenue service will soon begin listing on its web site the names of companies and individuals suspected of tax crimes, in what a spokesman described to Bloomberg Tax as its latest step to establish "the notion of tax transparency." The first list hasn't been published yet and the revenue service won't say when it will be, other than to say it will be updated on the 10th of each month.

Tax lawyers expect it to include people and companies who haven't been charged with crimes or even investigated, and are promising a court challenge.

Local Tax Amnesty:

The city of São Paulo has its own program of Amnesty (PPI Programa de Parcelamento Incentivado). For late local taxes (IPTU, ISS, ITBI, TFE/TFA, TRS), it offers a 85% discount on interest expenses, and 75% discount on fines for immediate settlement; and 60% discount on interest expenses, and 50% discount on fines for settlement over a maximum of 10 years. Deadline to benefit from this program was 31/10/2017 (many decide to wait – and bet - for a better next to come amnesty program).

"CUMULATIVE" AND "NON-CUMULATIVE" TAXES

Among the taxes in force in Brazil, there are "cumulative" and "non-cumulative" taxes.

"Non-cumulative" taxes, foremost, among which we find ICMS and IPI, are eligible for a tax credit (as VAT in most of the World). However, "cumulative" taxes do not qualify for tax credit.

PIS and COFINS taxes are not cumulative for those companies applying the "Real" method of calculating Corporate Tax. They are cumulative for others methods: "Simples" and "Presumido".

The existence of "cumulative" taxes has important consequences. Indeed, each actor of the production process will add an additional tax layer, resulting in a higher price for the final client.

BNDES FINANCING

Real interest rates in Brazil are among the world's highest. Obtaining cheap financing in Brazil is therefore a challenge and many international companies decided to provide themselves for financing their Brazilian subsidiaries.

BNDES, a public bank, can be a solution for your Brazilian subsidiary. It offers financing to small and medium sized enterprises ("SME"). BNDES disbursed R\$ 38 billion between January and September 2020. Micro, small and medium-sized enterprises accounted for 97.5% of operations and 50.7% of the total disbursed in the period, the highest percentage share since 1995. The infrastructure sector stands out with 45.6% of the disbursement volume.

Investments eligible for support include: Innovation, the Environment, Culture, Infrastructure, Industry, Export of Brazilian machinery, equipment and services, among others.

Only the economic sectors identified below cannot receive support from the BNDES:

- banking/financial activities;
- weapon trade;
- motels, saunas and establishments for adult entertainment; and
- gambling and the like.

Private companies with headquarters and administration in Brazil, as well as individual entrepreneurs are eligible to request financing from the BNDES. Public Administration and individuals are also entitled to financing in specific cases (cargo carriers, rural producers or micro entrepreneurs).

To apply for financing from the BNDES, the client is expected to meet the following minimum requirements:

- fiscal, tax and social obligations must be up-to-date;

- satisfactory registration must be presented;
- capacity to make payment;
- enough guarantees to cover the risk of the operation;
- client cannot be undergoing credit recovery;
- comply with legislation related to imports, in case of financing for imports of machinery and equipment; and
- comply with environmental legislation.

For small and medium sized companies, with a turnover up to R\$300 millions, it is possible to get financing through the issue of plastic cards. During the last 10 years, there were 700.000 cards issued! In 2020, there was over 10 billion R\$ financed through these cards.

The necessary process to obtain a financing with BNDES starts through the internet website, and is finalized within an agency of BNDES (or Itau, Banco do Brasil, Caixa Economica e Federal, Banrisul, and Bradesco).

Conditions:

- no late payment in Serasa Experian,
- need to provide statutory accounts,
- proof of payment of Corporate tax and social charges,
- no outstanding issue with the Central Bank,

On the other hand, it is not necessary to demonstrate that this is for well-devised project/business plan.

The bureaucratic part is just – no surprise – the acceptance of the credit. Once approved, the company can use any time it wants the amount granted by using the card online in a very easy and fast way.

With the plastic card, one can access the BNDES website where there is a catalog of over 200.000 items registered (from 50.000 companies) and available for purchase with financing.

Some of the benefits offered to BNDES Card users:

- revolving and pre-approved credit,
- credit limit of up to R \$ 2,000,000.00,
- payment term in up to 48 months, with fixed and equal installments,
- attractive interest rate, determined by the BNDES (the interest rate, effective in January 2020, was 1.13% per month),

FOREIGN EXCHANGE CONTROL

In Brazil, only authorized financial institutions are permitted to maintain accounts in foreign currency.

Thus, any payment or receipt of currencies by a Brazilian company (whether or not is part of a foreign group) must pass through an authorized financial institution and be registered with the Central Bank of Brazil (BACEN).

To avoid:

Some international groups when financing their local subsidiary in Brazil have used the bank account of a third party, for example the local CEO, i.e. the funds have not been sent from the Head office to the local subsidiary. And no registration was done with the Brazilian Central Bank.

Years later, when the time for the subsidiary to repay the loan to the headquarter has arrived, the Brazilian bank will ask some evidence that this transfer is a refund. Since no registration of the initial loan has been done, this won't be possible. The refund is not possible!

A solution is to 'create' another transaction, like paying Management Fees, or importing services from the Head office; but taxation on these transaction is heavy, whereas there is no taxation on the repayment of a loan.

Conclusion: when sending funds to your Brazilian subsidiary, (especially capital and loan), do not send the money through a third party, and register with the Brazilian Central Bank (BACEN).

When an International company sends money to Brazil, it must be registered into the BACEN system. RDE and ROF are acronyms that all international companies should know: a capital increase must be done through an RDE (*Registro de Declaração Electronica*, meaning Electronic Register of Disclosure). A loan needs an ROF (*Registro de Operação Financeira*, meaning Register of Financial Transaction).

Much is described in the RMCCI (Regulamento do Mercado de Cambio e Capitais Internacionais) available on the Central Bank website.

Process for sending capital to your subsidiary in Brazil:

First it is necessary to create a profile for your company on the Central Bank (BACEN) website. This process is called CADEMP (Cadastramento Empresa, or Company Registration) and needs an electronic identification (through the use of a Digital Authentication). You will need to download the following application on the BACEN website: PASC10 (<https://www.bcb.gov.br/htms/pasc10/pasc10.asp?frame=1>).

It is necessary to create a profile for the investor who will be sending the money to Brazil. The data to be inserted must be consistent with the data written in the Articles of Association. You will get a CADEMP number (ex: 616423) for the investor. A CADEMP is also necessary for the recipient of the investment.

Then, once you have received confirmation from your bank that the money has arrived at your corresponding bank in Brazil, you must contact the bank in Brazil to close the exchange. You can validate the exchange operation through Internet Banking or over the phone.

The big retail banks in Brazil are expensive and might charge 3, or 4%! Paying such a spread on Social Capital, or the Principal of a loan is significant. You don't want this when you start operations in Brazil.

The rate offered is based on the market price and will depend on:

- The bank (and its commercial policy),
- The amount transferred,
- Negotiation skills.

If the beneficiary feels that tomorrow's exchange rate will be more profitable than today's, it's possible to refuse the offer and to call anytime within the next 30 days to close the deal. After these 30 days, the operation can be cancelled.

After this, you will need to send some documentation by post mail. This will depend on the bank's internal process. It might be the screen image of the RDE (system SISBACEN), a signed statement asserting the destination of the funds, or any other document, but it will always include the numbered Exchange Contract. This contract will be sent by mail to you (the beneficiary), for you to print, sign and return two copies to your bank. Failing to do so within 48 hours might result in the operation being cancelled, the funds returned to the issuer, and all related costs being charged. This contract contains details of the transaction, among other things the nature of the operation: capital increase, loan, payment, etc. But it does not contain the spread applied by the bank, i.e. you won't be able to assess how much the bank has taken when doing the currency exchange operation.

This process can be done by your bank, or by broker (*"corrector de cambio"*) and is now possible thru internet Banking (but with no chance to negotiate).

Brokers in Brazil are institutions regulated by the Central Bank. They normally offer a cheaper and faster service. After a few months doing business in Brazil, foreign companies normally switch to Brokers.

INTERNATIONAL TAX TREATIES

Brazil has signed tax treaties with a limited number of countries to avoid double taxation. Most of these treaties apply to individuals and legal entities and cover taxes on income or profits but not taxes on the turnover. Today, Brazil holds double taxation conventions with the following countries:

List of bilateral agreements	
Argentina	Japan
Austria	Korea
Belgium	Luxembourg
Canada	Mexico
Chile	Netherlands
China	Norway
Czech Republic	Peru
Denmark	Philippines
Ecuador	Portugal
Finland	Slovakia
France	South Africa
Hungary	Spain
India	Sweden
Israel	Ukraine
Italy	Uruguay (since 2019)

They state that taxpayers residing in the former country have the right to credit the tax paid in the latter.

What is the situation of a Brazilian company when doing operations with a country that has no Tax treaty?

Any withholding tax paid abroad on a certain item of income may be credited up to the full amount of the corresponding corporate income tax due in Brazil on that income. Only the amount of the tax effectively paid abroad is admissible as a foreign tax credit, disregarding any tax benefits or discounts allowed by local law in the

source state.

Brazilian taxpayers that avail of foreign tax credits must obtain and present the corresponding supporting documents to the Federal Revenue Service by 1 January of the year after the offset takes place. These supporting documents, in the case of withholding tax, are:

1. the payment slips and proof of withholding issued by the source country; and
2. validation of these documents by the treasury of the corresponding Brazilian embassy in the country of source or, alternatively, either of the following documents:
 - a. an apostille issued by the local Brazilian embassy in the source country and an official translation into Portuguese of the payment slips and proof of withholding; or
 - b. books that prove that the item of income in question was accrued, and documents that prove that the laws of the source country require that the local entity withhold the withholding tax in question (ie, proof that the tax is effectively due).

ROYALTIES AND TECHNICAL SERVICE FEES

Royalties are generally considered as payments for the use of licensing of patents, trademarks and other technology transfers and copyrights. The remittance has to be preceded by the registration of the relevant contract before the Brazilian Institute of Industrial Property ('INPI').

Royalties paid to non-residents due to the use of technology, trademarks, patents or know-how are subject to a withholding tax of 15% (unless the rate is reduced under a tax treaty).

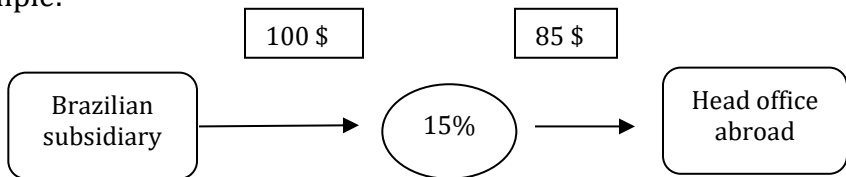
The current understanding of the Brazilian tax authorities is being applied:

- Payments for the right to distribute softwares are subject to the withholding tax at 15%.

- Payments related to the licensing of SaaS (Software as a Service) are subject to the withholding tax at 15%.
- Payments for the acquisition of non-customized software (Off the shelf) is NOT subject to withholding tax.

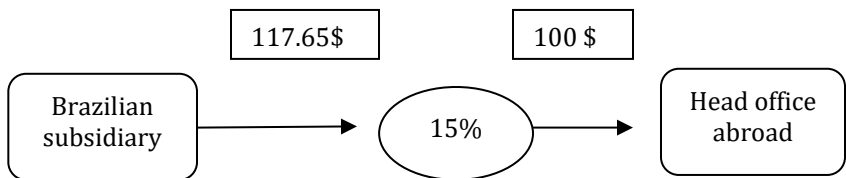
Likewise, the withholding tax paid in respect to technical assistance services, administrative services and support services is also 15% (unless the rate is reduced under a tax treaty). For general non-technical services, the rate is 25%.

Example:



As mentioned, the head-office bears the charge of 15%, receives 85\$, and obtains a tax credit of 15\$.

In practice, many head-offices revise the price of their services upward in order to receive the expected amount, net of tax, as in the example below:



This solution allows the head-office to improve its result; however, it also globally increases the amount of taxes and the cost to the subsidiary.

The PIS and COFINS are not levied on offshore remittances for the acquisition of the right to distribute software licensing, since the Tax Authorities classify such payments as “royalties”.

On the other hand, the payment related to the software as a service is subject to PIS and COFINS.

Since 2016, the ICMS tax on the licensing of off-the-shelf software started to being levied on the total amount charged by the license, and included transactions carried out with or without physical media, including downloading or availability in a cloud, by means of the observance of a tax burden of 5% on such amount. Thus, States have started to tax transactions with off-the-shelf software, commercialized by any means (physically, by download or in a cloud), whilst Municipalities, despite the distinction between off-the-shelf and made-to-order software fixed by the STF, have not waived taxation of these transactions because software licensing, without distinction, is a service taxable by the ISS.

Therefore, the current scenario with regard to such taxes is of extreme legal uncertainty, since in the case of transactions with off-the-shelf software, including custom-made software, States (ICMS) and Municipalities (ISS) will not waive collection of the same, to the effect that taxpayers practicing such transactions will be at risk of double taxation (source: Britcham).

Both Royalties and Technical services fees are also subject to CIDE (see after).

Federal Revenue Office States that Payments for Technical Services are not Subject to WHT under Brazil-France DTC

With a few exceptions, most of the DTCs signed by Brazil qualify payments for technical services as "royalties" instead of "business profits," which grants the right to tax to the source country.

The recent Private Ruling 2,004/2019 states that the Brazil-France DTC is one of those rare exceptions that does not qualify payments for technical services as "royalties," but as "business profits," so that withholding income tax does not apply when a Brazilian resident pays service fees to a French resident.

CONTRIBUTION CIDE

In some cases, transfers of funds abroad are subject to a Contribution for Intervention in the Economic Domain (“CIDE”) of 10%, and must be paid to the Brazilian National Fund for Scientific and Technological Development. This applies to payments to nonresident for the following:

- royalties on patent licensing, trademark licensing and know-how,
- payments of copyrights,
- technical assistance,
- technical services, administrative assistance and similar services.

There was a debate for many years – still today but more limited – about the application of this CIDE for the payment of software licenses, until the law 11452 made clear that software license payments were excluded for the application of CIDE (as long as there was no transfer of technology).

The CIDE is due by the company making the payment of funds, and is not deductible from the amount to be paid to the beneficiary abroad. As a result, the CIDE is not recoverable by the head-office abroad, even if a bilateral Convention has been signed between Brazil and that country.

The base of calculation is the gross amount of the invoice paid by the Brazilian company, it does include the amount of withholding taxes (normally 15%). It does not apply to the value of the exchange contract less IOF but to the value of invoice less IOF.

Example of calculation:

Gross amount of invoice	R\$ 100.000
Withholding tax 15%	R\$ 15.000
IOF 0,38%	R\$ 380
Amount received abroad	R\$ 84.620

Base of calculation of CIDE: $R\$100.000 - R\$ 380 = R\99.620

This charge is payable monthly, by the last day of the second week following the month of payment.

Moreover, the tax deduction for royalties is subject to a limitation of general application: 5% of the turnover from the sale of the product giving rise to the royalty. Above this amount of 5%, the amount paid is not deductible for the calculation of Corporate Tax (IRPJ and CSLL).

IP AND THE EU-MERCOSUR TRADE DEAL

Turning to the IP elements of the agreement, important progress has already been achieved by Brazil in aligning with provisions that have been proposed by the EU. This includes adherence to the Madrid Protocol on trademarks in June 2019 (the remaining Mercosur countries - Argentina, Paraguay and Uruguay - have not adhered to either of those treaties yet).

The Brazilian Federal Revenue on April 15th 2019 published guidance addressing the taxation of cross-border software licensing for commercialization or distribution.

The new guidance, Consultation Solution n. 99004, follows earlier guidance on the same topic, Consultation Solution n. 342 of 2017, which confirmed that such payments do not represent compensation for services but are payments for the right to commercialize an intangible in Brazil.

In brief, according to the new guidance, such payments will be subject to income tax withholding at a 15% rate because they represent a payment, credit, delivery, remittance, or availability to a non-resident in exchange for the cession of a right.

With regard to the withholding tax, it is important to note that this rate may be reduced under specific double tax agreements, such as Brazil's tax treaties with Spain, Mexico, and Israel, which reduce the

tax from 15% to 10%. Also, some double tax agreements grant a matching credit, such as the Netherlands and Italy tax treaties.

The guidance states that the CIDE, normally 10% on remittances made by corporate taxpayers, does not apply to these payments given there is no transfer of technology (which, in the Brazilian legislation, is represented by the opening of the source-code).

Although not included in the Federal guidance, depending on the municipality of the source company, the ISS may be levied – even if the payment is not in exchange for a service. This posture is contrary to the major jurisprudence and companies should go to the courts to contest this interpretation.

PROFITS & DIVIDENDS

There is no taxation on the transfer of dividends abroad. However, in a limited number of cases, a 15% tax may apply.

Since taxation on dividends is very favorable, it is recommended - to the extent possible - to limit or avoid the payment by the Brazilian subsidiary of a 'Management Fee' since this renunciation will be more than compensated by extra dividends (depending on share of capital controlled by the provider of the related services).

Definition	Distribution of dividends approved by resolution of the partners.
Prerequisites	Having foreign capital registered with the BACEN. Disclosing a balance sheet showing that the results distributed do exist, and the resolution of shareholders approving the distribution of results. Absence of accumulated losses.
Conditions of payment	Simple transfer with disclosure of the certificate of foreign capital, the balance sheet and minutes of the deliberation.
Rate of taxation when transferring funds	Exempt from any withholding tax.

WORLDWIDE OR TERRITORIAL REGIME

IRPJ and CSLL are levied on a worldwide basis. The profits of branches of Brazilian companies, and of foreign controlled or affiliate companies, are subject to taxation on 31 December of each calendar year, irrespective of distribution. Other income and gains earned directly by a Brazilian company abroad (eg, income or gains derived from financial investments) are also subject to taxation on 31 December.

Taxes paid abroad on profits, income and capital gains can generally be offset against IRPJ and CSLL, up to the limit of the Brazilian tax charged on such profits, income and gains.

Tax consolidation is not generally permitted by Brazilian accounting rules or tax rules, which generally require the submission of individual statements, except in some specific limited situations.

Investments in controlled or affiliated entities must be evaluated using the equity method. Under this method, the book value of the investments is accrued to the investor, to reflect the value of its interest in the total equity of the subsidiaries.

Profits earned overseas by foreign branches and foreign controlled or affiliate companies (as legally defined) shall be considered individually for tax purposes. Tax consolidation of results is allowed only for branches based in the same country. Losses accrued abroad cannot be offset against profits accrued in Brazil.

INTEREST INCOME

The Brazilian Treasury (Receita Federal) subjects the interest paid to a foreign company to a 15% withholding tax. The rate is 25% if the recipient is domiciled in a tax haven.

Definition	Payment of interest on loans
Prerequisites	The loan contract is subject to prior approval; and the inflow of funds in Brazil must be registered with the BACEN.

Conditions of payment	In accordance with the terms of the loan agreement authorized by BACEN.
Payment limit (and tax deductibility for the Brazilian company)	The amount of the loan made by a shareholder cannot be more than twice the amount of its investment in Equity Capital. In case the loan is more than twice the amount of Equity Capital, the excess will be non deductible for Corporate Tax.
Rate of taxation when transferring funds	IRRF* – 15% (art. 685, I, du RIR/99)

SPECIAL REGIMES

Special regimes exist (eg, for fund entities, enterprise zones, free trade zones, investment in particular sectors such as oil and gas or other natural resources, shipping, insurance, securitisation, real estate or intellectual property):

- Free trade zones: In Manaus Industrial Park, the government grants land for a nominal value, with available infrastructure such as water supply and water and sewage treatment, urban transportation and telecommunication facilities;
- Regional development incentives: Enterprises in the Northeast and in certain states in the Midwest and Southeast can benefit from federal, state and municipal benefits;
- Benefits granted for the export of goods and services;
- Special regime for the information technology export platform;
- Special regime for the purchase of capital goods by exporters;
- Incentives for technological innovation;
- Incentives for information technology and automated products;
- Incentives for the development of infrastructure;
- Technological development of semiconductors;
- Modernisation of Brazilian ports;
- Incentives for educational activities;

- Special tax regime for exporting companies;
- Special tax regime for small businesses; and
- Special tax regime for the Brazilian aviation industry.

TRANSFER PRICING

Contrary to the rules used by member states of the OECD (of which Brazil is not yet a member), the Brazilian law sets ceiling prices for imports and floor prices for exports. The peculiarities of the Brazilian legislation are difficult to reconcile with International legislation. Experience shows that a significant number of foreign companies ignore this situation and are ill prepared to overcome the resulting difficulties.

The Brazilian legislation on transfer pricing applies to all transactions between related companies. A participation of at least 10% directly or by a common shareholder, qualifies as “related companies”. Likewise, the sole status of agent, distributor or exclusive licensee of a foreign company without a capital link, also qualifies.

Thus, the Brazilian notion of related companies is much more extensive than that of international standards.

Moreover, there is a special provision on payments to taxpayers residing in a tax offshore country. A transaction made by a resident of Brazil with a taxpayer resident in a country that has not established the corporate tax, or levying the tax at a rate below 20%, is subject to transfer pricing rules even though both parties to the transaction are independent. The list of these countries is published by the Ministry of Finance (consult the Instrução Normativa RFB nº 1.037 - The Delaware US State has been included into this list).

The methods are similar to those of the OECD but impose fixed margins. If the price of an imported product exceeds the price ceiling set by law, the corresponding expenditure is not deductible. Similarly, there is a floor price for exports.

For imports, the price ceiling is defined using three methods:

- the market price method,
- the resale price method,
- and the cost plus method.

The market price method must take into account the arithmetic average of selling prices of similar products or services, as reflected in comparable transactions with independent third parties in the Brazilian market, or in a foreign market, under the same financial conditions. The Brazilian official directives define the criteria and indicate the adjustments to be made based on the financial conditions of the transaction, such as payment terms, guarantees given, quality control, advertising expenses, insurance and transport.

For the resale price method, a margin of 20% must be calculated on the price.

For the cost plus method, the margin is also 20%, but the definition of costs to be taken into account is extremely precise, and it should comply with the nomenclature thereunder. This means preparing upstream the specific tables showing cost items as provided in the circular of the administration. In addition, the Brazilian tax authorities may demand to verify the actual costs incurred by the seller of goods or services (by definition located abroad), which can go up to the production of proper accounting documents.

However, there is no recommendation regarding the use of the best method. The taxpayer can use one of these three methods, or use several of them, in which case he may retain the one which gives the highest price.

With respect to exports by Brazilian companies, they are subject to transfer pricing rules when the average price of exported goods or services on the fiscal year is less than 90% of the normal price set by the company on the domestic market. When the 90% rule is not met, the company must justify its export price using one of the following:

- sales price as compared to market prices,
- 'resale minus', with application of a fixed margin of 15% for wholesale and 30% for retail sale,
- the 'cost plus' with application of a margin of 15%.

Finally, there is an exception to the application of these fixed margins when:

- either the turnover in the year with related companies is 5% or less of the total turnover of the Brazilian company,
- or the absolute value of exports with related companies, during the year, does not exceed 5% of the net income of the Brazilian company (based on the average of the year or, where applicable, the previous two years).

Again, companies can retain one of the recommended methods without having to justify whether it is appropriate or not to the type of transaction concerned.

These rules on Transfer Pricing apply not just for merchandise, but also for services (although few international companies are aware of that). Besides, these rules apply for companies using the Real tax regime or the Presumido tax regime (despite paying all taxes on turnover).

In February of 2018, the OECD and Brazil's IRS launched a joint project to examine the similarities and divergences between the Brazilian and the OECD transfer pricing approaches.

In December of 2019, the joint project issued its first report, which also explores options for Brazil to converge with OECD transfer pricing standards while enhancing the positive attributes of the existing framework.

Now, Brazil has identified a clear pathway for bringing its existing transfer pricing frameworks into alignment with the international consensus and is weighing two options – immediate or gradual implementation.

Brazil's IP royalty remittance laws directly conflict with the United State's transfer pricing policies.

As far as controlled transactions – i.e., transactions between related parties – of intangibles, Brazil is not aligned with most jurisdictions and has not based its rules on Organisation for Economic Co-operation and Development (OECD) guidelines. Instead of basing itself on the OECD's "arm's length" principle, Brazil has restrictive rules limiting foreign-based companies' ability to determine the royalty fee charged from the company's Brazilian subsidiaries.

Specifically, this law established that Brazilian subsidiaries could only remit abroad and deduct royalties up to the limit of 5% of the net sales of the licensed goods.

Meanwhile, section 26 C.F.R. § 1.482-1(b) (2015), the Code of Federal Regulations, written by the United States IRS, adopts the "arm's length" principle. This principle determines that the fees charged in a controlled transaction must be consistent with the results of a comparable uncontrolled transaction.

The conflict between U.S. and Brazilian law occurs when the calculation of royalties using the IRS's methods gives a result that breach the 5% maximum that Brazilian Law no. 4,131/61 requires. When this happens, international companies are presented with two choices: (1) calculate a U.S. IP royalty price and break Brazilian law or (2) use the Brazilian flat royalty rate and risk U.S. sanctions.

In a 2013 court proceeding (3M Company and subsidiaries v. Commissioner. Docket No. 005816-13), 3M challenged the IRS's power to reallocate royalties from 3M's Brazilian subsidiary. The IRS alleged that for the year 2006 the IP royalties 3M was receiving from 3M's Brazilian subsidiary were less than fairly priced because they were not calculated using one of the IRS's three methods. The court fillings showed that 3M remitted \$5.1 million in trademark royalties to the United States on about \$563 million in Brazilian sales in 2006. The IRS claimed 3M should have remitted an additional \$27.8 million, which would cause 3M to pay an additional \$4.8 million in taxes.

3M sued to undo the IRS's reallocation, arguing that the IRS's

proposed IP royalty payments were against Brazilian law and therefore out of the IRS's jurisdiction for reallocation.

Unfortunately, the arguments from both sides ended because, shortly after 3M's rebuttal, the case settled out of court. No official decision was rendered. The IRS maintained their C.F.R. and companies with subsidiaries in Brazil received no clarification as to how they can adhere to both countries' royalty remittance policies. Source: JDSUPRA.

R&D CREDITS AND OTHER TAX INCENTIVES FOR INVESTMENT

Tax incentives for research and development (R&D) aim to encourage investment in the research of new products and manufacturing processes, and in improvements to the quality, productivity and competitiveness of existing products and manufacturing processes.

Under Law 11,196/05, corporate income tax (IRPJ), withholding income tax (IRRF), social contribution on net profits (CSLL) and federal excise tax (IPI) benefits are granted for such purposes, as well as government subsidies to fund the remuneration of professionals with master's or doctorate degrees hired by Brazilian companies to conduct research activities.

The benefits granted to encourage technological R&D include:

- full depreciation in the year of acquisition of new machinery, equipment and tools used in R&D when calculating IRPJ and CSLL;
- accelerated amortisation of expenses relating to the acquisition of intangibles linked exclusively to technological R&D, by means of the deduction of such expenses as operational expenses in the year in which they are incurred;
- government subvention of up to 60% of the value of the remuneration of researchers holding master's or doctorate

degrees;

- a reduction of the IRRF rate to zero for payments or credits to non-residents for the registration and maintenance of trademarks, patents and cultivars abroad; and
- a 50% reduction in the IPI levied on the purchase of equipment, machinery, devices and instruments, spare parts and tools, as long as such products are used for technological R&D.

In late 2018 a new tax incentive programme for R&D in green technologies and greater efficiency in the auto industry, called Route 2030, was introduced to replace Inovar-Auto, which ended in 2017. The tax incentives available for products that benefit from the Route 2030 initiative are wider in scope than those originally available under Inovar-Auto, extending beyond IPI to potential IRPJ and import tax benefits, as follows:

- the possibility to take a 10.2% credit of qualified R&D expenses directly from IRPJ and CSLL due by the company, with the possibility to credit an additional 5.2% of qualified 'strategic' R&D expenses. The available tax credits are limited by the amount of tax due in each period, with a possibility to carry forward credits for subsequent periods of up to 30% of the tax due;
- an exemption from import tax for automotive parts and components that have no locally produced equivalent, listed in Annex X of Decree 9,557/2018, provided that they are used before the third anniversary of the date of the taxable event; and
- a reduction of up to 2% in the tax on industrialised products for vehicles that comply with the energy efficiency

requirements set forth in Annex III, Items 3 to 8 of Decree 9,557/2018 and the structural performance requirements set forth in Annex VIII of that decree.

INCOME TAX

The basis of calculation of income tax is wide and includes not only salaries, but also most benefits offered by companies (such as tuition fees, housing benefits, and expat benefits).

On the other hand, the monthly payments of FGTS - 8% based on the gross salary, and taken out of the payslip - are not taxable.

The main deductions from the tax basis are the following: social security and Brazilian pension fund contributions, Brazilian health plan contributions duly approved by the authorities, and medical expenses.

The tax rate for a non-resident taxpayer (mainly foreigners having arrived in Brazil without a work contract, and staying in Brazil for less than 6 months) is 25%.

Yearly thresholds of Income Tax:

Progressive Table for the yearly calculation of Income Tax of Individuals for 2021		
Monthly base of calculation	Rate %	Deduction (R\$)
$0 < X < 22.847,76$	-	-
$22.847,76 < X < 33.919,80$	7,5	1.713,58
$33.919,80 < X < 45.012,60$	15	4.257,57
$45.012,60 < X < 55.976,16$	22,5	7.633,51
$55.976,16 < X$	27,5	10.432,32

Tax income is managed by the Federation and is paid in two steps:

- a monthly payment taken from the source of income and shown on the payslip,
- then, a yearly adjustment (through a declaration on the website of the Federal Treasury, or in an agency of 'Banco do Brasil' or 'Caixa Economica e Federal').

The level of technology in the tax administration is very high. This has been decided to fight tax evasion, and also because of years of raging hyperinflation that has plagued the country. The use of technology allows for better control, and faster settlement. For example, over 95% of income tax returns are made through the internet.

The period for sending the declaration is from March 1st to April 30th (due to COVID19, deadline was June 30th in 2020). Failing to send this tax from within deadline is a fine of up to 20% of the taxes due.

The tax authorities have created a simulator for individuals (<http://www.receita.fazenda.gov.br/aplicacoes/atrjo/simulador/simulador.asp?tipoSimulador=A>). It takes into consideration deductions for:

- Social security,
- Dependents,
- Education costs,
- Medical costs,
- Alimentation pension paid,

Most of them are deducted from the basis of calculation.

The IRPF yearly statement must contain not just the various income – salary, rent, financial income, pensions... - but also the list of assets held in Brazil and abroad.

OTHER TAXES ON PERSONAL INCOME

CAPITAL GAINS

Taxation of capital gains earned by individuals increased. Until 2016, capital gains were subject to a flat 15% Withholding Income Tax (WHT) rate. On September 22nd, 2015, however, the Brazilian Government issued Provisional Measure 692/15, increasing the taxation of the capital gains earned by individuals. On March 16, 2016, this Provisional Measure was converted into the Law 13,259.

With this new Law, the WHT will be levied progressively, as shown in the table below (rates still applicable in 2021):

AMOUNT OF CAPITAL GAINS	% OF TAX
Up to 5 million R\$	15
Between 5 million R\$ and 10 millions R\$	17,5
Between 10 million R\$ and 30 millions R\$	20
Over 30 millions R\$	22,5

STOCK MARKET

For investors in equities traded on the Stock Market, a 15% tax is applied on gains when the amount of sales is over 20K \$R during the month. If the amount of sale is not over 20K \$R, there is no tax.

On the other hand, gains on intra-day operations are taxed at 20%.

For investors in the money market and bonds, gains are taxed depending on the holding period of the investments:

- held less than 6 months → 22.5%
- held between 6 and 12 months → 20.0%

- held between 12 and 24 months → 17.5%
- held more than 24 months → 15.0%

Non-residents bear a 25% tax, whatever the financial product and the duration of the holding.

The calculation of the cost of purchase and sale takes into account the cost of transaction and related costs. The payment of the tax is monthly, the deadline being the last day of the month.

PROFIT SHARING SCHEME

Employees who receive some revenue through a profit-sharing scheme (“Participação nos Lucros ou Resultados” - PLR) of the company must pay tax on those benefits:

2021 Yearly amount (R\$)	(%)	Amount of deduction (R\$)
From 0,00 to 6.677,56	-	-
From 6.677,56 to 9.922,28	7,5	500,82
From 9.922,28 to 13.167,00	15	1.244,99
From 13.167,00 to 16.380,38	22,5	2.232,51
Over 16.380,38	27,5	3.051,53

INHERITANCE AND WEALTH

The Federation has created a tax on inheritance and gifts (“Imposto Transmissão Causa Mortis e Doação” - ITCMD) that amounts to 8%. Nonetheless, the Federal States have the authority to diminish this rate. For example, the state of São Paulo has set this tax at 4%.

A project – 57/2019 – should double the maximum rate for this tax, i.e. it shall be a maximum of 16%. The vote of this project has been postponed due to the COVID19 pandemic.

There is no tax on wealth.

CHAPTER 2 - BUSINESS CREATION AND LEGAL OBLIGATIONS

BUSINESS CREATION

Breaking into the Brazilian market is hampered by lengthy legal procedures, especially for industrial companies. Brazil remains in the latter half of the annual rankings on the ease of business locations. In 2020, the World Bank ranked Brazil in 138th position out of 190 countries assessed on the sole criteria of “Starting a Business”:

Among the criteria used to assess the Ease of Doing Business, one is related to “Paying Taxes”. With respect to this sole criteria, Brazil ranks 184th!

A comparison between Brazil, Latin America & Caribbean, and OECD shows how big the gap is with respect managing the tax issues :

Indicator	Brazil	Latin America & Caribbean	OECD high income
Time (hours per year)	2600	382	186
Profit tax (%)	22.4	19.9	15.4
Labor tax and contributions (%)	40.9	14.6	24.0
Other taxes (%)	3.8	13.2	3.2
Total tax rate (% profit)	67.1	47.7	42.7

Nevertheless, the authorities – the Federation and Federal States - have already achieved some initial progress. Today, starting a (micro) business in Brazil requires - with the assistance of a lawyer and an experienced accountant - about 15 days at a relatively low cost.

Time and budget are very different for international companies moving into Brazil. In practice, for the Brazilian subsidiary of a foreign group, preparation of necessary documents will take several weeks and can take up to several months.

The main procedural requirements are as follows:

- Recording of the Articles of Association to the Board of Trade (Junta Comercial),
- Registration with the Public Treasury (Receita Federal) to obtain the Legal Person National Registration number (NIRE & CNPJ),
- Registering with the Authorities of the State where the company resides,
- Registering with the Authorities of the City Hall where the company resides,
- Declaration of employees at the INSS (Social Security) and CEF Bank (Caixa Economica e Federal, in charge of the Fund of Guarantee for Time of Service, 'FGTS').

Once the company is created (with the CNPJ number issued) it is necessary to open a bank account. For the Brazilian subsidiary of an International company, opening a bank account can be a very time-consuming process. Banks will have to identify who are the individuals controlling the legal entity(ies) investing in Brazil. The compliance departments of banks in Brazil are picky and slow, and one should expect another 2 months (or more) to get the bank account opened.

About the Name of your Company Normative Instruction N°116 (IN 116)

A first necessary step is related to the name.

The Normative Instruction N°116, 29th November 2011 states all regulations about the name of the company. Depending on the legal form of your company, you may have to include:

- the name of the partner,
- a statement describing the activity of the company,
- the information about the legal form of the company,

Article 6 of the IN 116 states that in the same Federal State, two companies cannot have the same name; or a similar name.

When opening a branch (with the same name) in another federal state, the name is automatically registered and protected (Art 10).

According to Article 14, Micro and Small Companies must specify ME (Micro Empresa) or EPP (Empresa de Pequeno Porte).

To verify that a name is available and to register a name, it is necessary to go to the website of the Junta Comercial of the State where your company will be registered. Select RGIN (Registro Integrado) and follow the process. A 21 pages' document explains (in Portuguese) in details the steps to fill out the form online.

It is first required to create an account in order to receive login and password. Then, some information is required, among other things the exact name and the social object (using the CNAE codification).

At the end of the process, a 13 digits protocol number is given. This will allow the applicant to consult and follow the process of approval through consulting the website.

Evidence that the process has been followed and the name approved must be included in the file to be sent to the Registry of Commerce (Junta Comercial).

The table below shows clearly that some steps are very much impacted by the political and administrative organization of Brazil; they must be done at each level: Municipal (Prefeitura), State (Estado) and Federal.

General Process

- Since all documentation provided to the authorities need to be authenticated, you need to register your signature at a Notary office (“cartorio”),
- Name your company (rules apply depending on the form of your company). Register the name of your company. To make sure the name of your company is acceptable; go through the RGIN process (on the Junta Comercial website).
- Write the social contract; and make sure the content is fully compliant with Federal and State laws. Sign the contract and

authenticate the signature. Two partners are necessary; both with CPF or CNPJ.

- Edit the DBE (Documento Básico de Entrada). For this go to the receita federal website, download the CNPJ application (be aware that there are regular updates). Print 2 copies and have them authenticated by the notary.
- Pay the relevant taxes: on the Junta Comercial website, issue the document for paying taxes relevant to setting up the company (boleto on the Junta Comercial website + DARF with receita federal). Pay the taxes and keep a receipt to add into the file.
- Provide the file to the Junta Comercial, and keep the file number received. With this number you will be able to follow the status of your file online.
- After approval from the Junta Comercial, you can edit the CNPJ online. CNPJ will show the birth date of your company, but you still cannot issue invoice (Nota Fiscal).
- In order to issue NF, you need a special Municipal license (called Alvara), and a special electronic device (Certificado Digital).
- For some specific sectors (mainly Industries and Commerce, a State License (Inscrição Estadual) must be obtained (at the Secretaria Estadual da Fazenda).
- All companies must be registered with Social Security (Previdência Social) and CEF Bank.

On January 29, 2016, the Brazilian Government ratified the Hague Convention of 1961; this came into force in Brazil on August 14, 2016.

The Hague Convention provides that all public documents from the Contracting States (countries that have signed it – including the United States, Japan and the European Union countries) are recognized as valid and effective in other Contracting States.

However, a certified translation of these documents must still be made before they can be submitted to Brazilian courts or government agencies.

New law on Economic Freedom

On 20th September 2019, the provisory decision (Medida Provisoria) on Economic freedom (Liberdade Economica) turned into a national law. During the process of editing this law, this was renamed sometimes the mini Labour Code reform. These are some of the key changes:

- Ease for companies, especially start-ups, to test products for a restricted group
- For those trying to start a business, especially a small or medium-sized enterprise and a low-risk activity, there is longer necessity to obtain a “permit” (this permit is named “Alvara” in Brazil, sometimes difficult to obtain). A entrepreneur opening a consulting firm in his own house had to obtain this ‘Alvara’!
- There is now a deadline for the agencies to respond to the entrepreneur's requests. If the deadline is passed, then the entrepreneur assume that his request was approved. The silence of the administration within this deadline will be worth a positive return.
- The law exempts the worker from hitting entry and exit points for companies with more than 20 employees by agreement.
- This is no more risk to pay penalties or face a labor process if the company takes more than 2 days to register the new employee: there are now 5 days to do all paperwork necessary to get a new staff on the payroll,
- There is also the creation of the digital work book for the employees (today, every employee has a paper book – the format of a passport - that must contain all the history of employment, and must be filled and signed by all employers).
- The e-Social will be extinct and replaced by a new system (the e-Social is an recent obligation for companies – including small ones – to communicate information on employees and related salaries and social charges through a new centralised system). The new system should need only 50% of information contained in the e-Social).
- The Register of Commerce of cities (named ‘Junta Commercial’ in Brazil) shall be entitle to open and close a company. Today the federation is part of the process, and in some cases, the

state as well (there are 27 states in the federation of Brazil).

- Digital documents will be approved where it was necessary providing certified copies,
- The right to ask for Certificate (named 'Certidoes' in Brazil) is limited by this law. These certificates are required by authorities or companies to participate in tender and bids for example. There are many type of Certificate; some bids require to provide ten certificates.
- Birth certificate, and death certificate will no longer have a valid date.
- This laws shall authorise the incorporation of a "Limitada" (legal form similar 'Limited Liability Company') with only one shareholder (currently the 'Limitada' needs two shareholders),
- Under the new law, new norms for disregarding the legal personality were sanctioned (legal mechanism established in the Civil Code of 2002 that makes room for the partners of a company, for example, to be held liable as individuals for the company's debts): debt collection from a company of the same economic group is prohibited, when the purpose is to pay off the debts of another company belonging to the group; the equity of partners of a company is now separated from business equity in cases of bankruptcy or foreclosure - the same goes for associates, managers and the like, except for cases where there is explicit intention of fraud. Such modification may reach including the labor sphere.
- Another important point of Law No. 13.874 concerns the creation of the concept of regulatory abuse, which will occur whenever the Government issues a rule to the detriment of the exploitation of economic activity or competition in the free market. The law also cites examples that fit the figure of regulatory abuse, such as: creation of market reserves in favor of an economic group; creating barriers for competitors to enter a market, whether domestic or foreign; requirement of unnecessary technical specifications for a given economic activity; creation of artificial or forced demand for products and services; barriers to the formation of companies or activities that do not violate the legislation. It is now possible to 'disrupt' the markets; prior to that it was not possible for companies such as Uber or Airbnb to be launched in Brazil.

For its defender, this new federal law has the potential to generate 3.7 million jobs within 10 years and increase GDP by about 7%.

LIST OF LEGAL FORMS

- EI/MEI (Individual Entrepreneur),
- EIRELI (Individual company with limited responsibility),
- ‘Sociedade Limitada’ (Ltd.),
- ‘Sociedade Anônima’ (Plc),
- ‘Sociedade em Comandita Simples’ or ‘Sociedade em Comandita por Ações’,
- ‘Sociedade em Nome Coletivo’ (General Partnership),
- ‘Sociedade em Conta de Participação’,
- Cooperative,
- ‘Consórcio’,
- Branch.

Some of the most popular forms - EI, EIRELI, LTDA and S.A. - are described below.

EI / MEI

The *Empresario Individual* (“EI”) and *Micro Empresa Individual* (“MEI”) should allow the legalization of most of the 12 million “informal” businesses operating in Brazil.

Not all professionals can apply for EI/MEI regime; those entitled are usually small scale producers, traders or sellers. ‘Intellectual’ professions are not entitled to select the EI/MEI option. Instead of this, these professionals are considered ‘autonomous’ (ex: engineer, architect, accountant...). It’s necessary to contact the Municipality to obtain the list of services and activities that can apply for the EI/MEI.

The process of incorporation of an Individual Company is described in article 966 of the Civil Code and has been simplified by the “Complementar Law” nº 128, 19/12/2008.

For foreigners, it is just necessary to have a permanent visa, a certified copy of his identity, and an application for incorporation. Documents from abroad must be translated into Portuguese by a professional registered with a Chamber of Commerce and certified by a notary.

To fight against parallel economy, the government gives incentive for individuals turning into a legal entity. Some key limitations:

- Yearly turnover cannot exceed 81,000 R\$ for EI, 360,000 R\$ for MEI,
- The entrepreneur cannot hire more than 1 employee,
- The entrepreneur cannot be partner or administrator of another entity,

The EI/MEI provides the following benefits:

- Social Security financial benefits,
- Maternity leave,
- Retirement,

Be aware that the EI is not a legal entity, i.e. personal assets of the entrepreneur are at risk.

CONSTITUTION

The process of constitution does not cost anything. Besides, all accounting firms using the Simples method, must offer for free and for the first year, the services of filling out all required information (see description below) and of editing the first annual tax declaration. The EI gets an Identification Number (CNPJ) and can also have access to banking services.

Additionally, there is no need to edit a monthly P&L, therefore no need to pay accounting services. There is just a monthly plain-vanilla report on turnover.

Application for MEI is done through an internet website: <http://www.portaldoempreendedor.gov.br>. Information to be input is: CPF, birth date, income tax personal identification number, or Voter's number (for foreigners, or Brazilian exempt of paying

income tax or voting, it's necessary to contact the Sebrae 0800 570 0800). Then, much information is required, on the type of activity, and way of providing services (in office, at client's, door to door, internet, telephone selling...). The commercial address can be a residential address.

At the end of the document, it is necessary to opt for the 'Simples' and for the Simei (DASN SIMEI - Declaração Anual do Simples Nacional - MEI).

You then obtain an Identification number for your company (CNPJ), and a registration number before the Chamber of Commerce (Junta Comercial). You receive a MEI certificate (Certificado da Condição) that is also a temporary Licence ("Alvará de licença e funcionamento provisório").

TAXATION

These are the following monthly taxes:

- 5 R\$ of ISS payable to the Municipality,
- 1 R\$ ICMS to the State.
- INSS is reduced to 5% of the minimum salary, i.e. 39.40 R\$.

There is no tax payable to the Federation.

An MEI must issue invoice (Nota Fiscal) only when it sells to legal entities. Such formal documentation is not required when the MEI sells to individuals.

OBLIGATION

The same website provides the required document used to pay taxes (DAS – Documento de Arrecadação Simples); the deadline is the 20th of each month.

Likewise, it is necessary to edit monthly (deadline 20th) the turnover report ("Relatório mensal das receitas brutas"). Turnover must be disclosed in this document, with details between services, commerce and industry:

- Commerce with edition of necessary tax documentation,

- Commerce with no obligation to edit tax documentation (final client is an individual),
- Industry with edition of necessary tax documentation,
- Industry with no obligation to edit tax documentation (final client is an individual),
- Services with edition of necessary tax documentation,
- Services with no obligation to edit tax documentation (final client is an individual).

After editing the document, it's necessary to sign it, annex the tax documentation issued, and tax documentation related to purchases of goods and services. The entrepreneur cannot buy anything without tax documentation.

This report must be archived and made available to tax inspectors. It's used to make the tax declaration (DASN SIMEI). This disclosure must be sent every year on the last day of May, and done through the following website: www8.receita.fazenda.gov.br/SimplesNacional/

The function of "Manager" is not an obligation, while the one of "Accountant" is obligation. The accountant must be qualified and is responsible for the bookkeeping. He can be an employee of the MEI or a service provider.

STAFFING

An MEI can hire a maximum of 1 employee; and through the CLT laws, he/she may be an employee or an autonomous professional. The employer must pay FGTS and send information to Social Security (GFIP: Guia do FGTS e Informaçao à Previdência Social) on the 7th of each month, through the system of the CEF Bank (this application must be downloaded at www.receita.fazenda.gov.br).

SEBRAE

Sebrae is The Brazilian Service of Support for Micro and Small Enterprises and serve as a hub for people interested in entrepreneurship in Brazil. It was founded in 1972 and counts on a network of 4,433 employees and 9,223 external consultants.

Sebrae is the main source for reliable information about entrepreneurship in Brazil; from working visas for foreigners to

schedules of entrepreneurial gatherings. Sebrae has all the official answers foreign investors need. It may be slower than a Google search but it is definitely more accurate.

More information is available on this site (in Portuguese): <http://www.sebrae.com.br>.

EIRELI (INDIVIDUAL COMPANY WITH LIMITED RESPONSIBILITY),

The law nº 12.441 of 2011, created the Limited Individual Company. It came into force in 2012 and immediately proved very popular.

With the Empresa Individual de Responsabilidade Limitada (“EIRELI”), it is now possible to set up a company without the need to have a partner.

For many companies created, the founder had to look for a partner, most likely a member of his family, or a friend in order to comply with the minimum number of partners. In most cases, the second partner had just a tiny or symbolic share of the capital and had no participation in the management of the company, neither in the daily operations, nor in the long term strategy. The EIRELI makes it possible to avoid looking for this loophole; it makes official what already existed.

The EIRELI is a profit oriented legal entity, set up by a unique associate.

With EIRELI, the associate can create his own company independently, without putting at risk his own assets. The responsibility of the EIRELI is limited to the company’s own assets.

On the other hand, one key constraint is that a minimum capital is required and must be at least 100 times the current minimum federal salary, i.e. 110,000RS in 2021 (following increase in the minimum salary does not affect the minimum required capital). Capital can contain fixed assets.

The partner of an EIRELI cannot be partner of another EIRELI, the number of EIRELI is limited to 1 per investor.

The separation between assets of the company and assets of the lone associate must be clearly maintained. Failing to do so might result in the extension of the financial responsibility of the company to the associate's own assets; for example, if the company fails to pay its debts.

It is advised for the associate to limit the powers of the administrator to the objects, and to forbid any major operation such as providing guarantee, committing the entity.

Since the law 12.441 was silent about this issue, for many years there was discussion about the possibility for a Legal Entity to open an EIRELI. In 2017, thanks to the 'Instrução Normativa 38', it is now clear that a legal entity – even a foreign entity – can open an EIRELI.

EIRELI - Necessary information
in the Articles of Association (“AA”)

The AA must be approved by a lawyer and must contain his name and his Brazilian lawyer registration number (OAB). The AA must be registered at the RCPJ (Registro Civil de Pessoas Jurídicas).

There is a new “National network for streamlining registration of new companies” named REDESIM (Rede Nacional para a Simplificação do Registro e da Legalização de Empresas e Negócios). The RCPJ is connected to this Network and will allow through their website the following:

- Searching and booking a name,
- A link to fill the DBE,
- Obtaining the CNPJ,
- Automatic transfer to City Hall for obtaining the local registration ('Cadastro municipal') and license ('Alvará').
- State registration ('Inscrição Estadual').

Necessary Clause:

The name must terminate with “EIRELI”. It also must indicate the activity or the main activity if more than one is performed. It can contain the name of the associate.

It is possible at the time of the constitution to select Micro

Company (MEI) or Small Company (Empresa de Pequeno Porte - EPP), and specify in the AA to be provided to the RCPJ:

- The complete address,
- The clear and exact description of the object,
- The life period,
- The social capital.

It's also necessary to include a declaration in which the associate states that he is not associated in another EIRELI.

THE LTD COMPANY ("Ltda.")

Prior to the formation of Ltda, the non-resident individual partner should obtain a CPF at the Public Treasury (Receita Federal), and the non-resident foreign corporation a CNPJ.

If the foreign partner is the administrator of the company, he must first claim a permanent resident visa. Then, the required documents should be submitted to the Board of Trade (Junta Comercial), and the capital released through a computerized registration with the Central Bank of Brazil (SISBACEN).

The social contract must be referred by a lawyer with mention of his/her name and registration number at the Bar. It should be accompanied by a certified copy of the identity of the directors and of the signee of the application (the shareholders). For foreigners, all documents must be translated by a certified professional.

The main features that distinguish Ltda are:

- Limited liability for partners,
- Simplified set up and management,
- No minimum capital,
- No requirement to build reserves,
- No requirement to publish annual financial statements,
- Can be easily converted into a Public Limited Company.

Ltda companies must have at least two partners, but neither of them needs to be Brazilian, or resident in Brazil. A partner may be a physical or a legal person.

A Ltda. must be managed by a physical person resident in Brazil, a Brazilian, or a foreigner but with a 'permanent' visa. In the case of a foreign director who would be transferred to Brazil to take on this responsibility, it is necessary - and at first until he can get the 'permanent' visa - to appoint an interim Brazilian administrator (or a foreigner with a visa). Indeed, the 'permanent' visa can be issued only after incorporation of the new company.

THE SOCIAL CONTRACT

The social contract is essential to the constitution of the company. It must state:

- The name of the company - which is always followed by Limitada, or Ltda - the activity, the address of the head office and the life time of the company,
- The names, nationalities, civil statuses, occupations and places of residence of the individuals involved (and names, nationalities and addresses of the head-office of associated corporations),
- The capital, expressed in local currency, if necessary with information on physical assets brought in as capital,
- The share of each partner,
- The share of each partner in expected gains and losses,

THE MANAGER

The manager ("Administrador") can be a shareholder or not, but must be an individual. It cannot be a legal entity. He is nominated in the contract, or by a separate document. If there is no formal appointment of a manager, then all shareholders are managers.

In case of the appointment of several managers, and in case of disagreement between them on a major decision, the shareholders meeting shall convene and conduct a simple majority vote.

If the manager is not an associate, the appointment of the manager needs the unanimity of the votes if the capital has not been released, or two-thirds if the capital has been paid.

The scope of responsibilities of the manager in a Ltda must be analyzed from several aspects: civil, fiscal, administrative, social and

criminal justice. The company will be required to take up responsibilities before third parties for acts committed by the manager; it can later pursue the manager to obtain compensation for damages (Article 931 of the Código Civil).

The liability of the manager may be engaged in the following cases:

- to compensate the company for losses caused by carrying out an illegal act,
- by the non-fulfillment of decisions taken at the annual assembly,
- breach of contract, mainly due to lack of diligence, integrity, conflict of interest, or personal use of company assets.

Bankruptcy law provides for the possibility of extending the responsibility of the manager to his personal property (Art. 6 Decree-Law n^o 7661/45). It is the same for tax law, if the company has not settled its taxes, even though it had the financial means, and if it appears that the manager had acted in bad faith, or had committed an offense under the law (Art. 135 of the Código Tributário Nacional III).

Article 75 of the Consumer Defense Code (Código de Defesa do Consumidor, or "CDC") establishes criminal responsibility on the manager who accepts the offer of products or services under circumstances prohibited by the CDC.

The dismissal of the manager can intervene at any time. But, if he is partner and is so designated in the social contract, then it requires a vote of two thirds of the capital.

PARTNERS AND THE ASSEMBLY OF PARTNERS

The responsibility of each member is limited to the amount of his contribution, but all are jointly and individually liable up to the whole capital.

Moreover, in case of abuse of rights, abuse of power, misuse of corporate assets, breach of the law, violation of the statutes or of the social contract to the detriment of consumers, the judge extend responsibility to the personal assets of convicted partners.

The partners' meeting deliberates on the following points:

- The approval of Financial Statements,
- The appointment of managers, if this has not already been done in the social contract,
- The dismissal of the manager,
- The determination of his remuneration, if it has not been already done in the social contract,
- Amendments to the social contract,
- The merger or dissolution of the company.

Decisions are taken during the meetings in accordance with the provisions of the social contract. The need for convening a meeting is provided in the law; the social contract may provide further reasons.

The partners' meeting is required if the number of partners exceeds 10.

The formalities for convening a meeting do not apply if all members are present, or state in writing to be informed of the date, venue and agenda of the meeting.

The convening of a meeting may also be called upon by:

- A partner, if, despite the statutory and legal provisions, more than 60 days have elapsed since the deadline, or by a partner with at least a 20% stake share.
- The Supervisory Board, without justification.

A partner may be represented by another partner, or a lawyer. No partner may participate in the proceedings when his vote would present a conflict of interest. At the meeting, a chairperson and secretary are appointed from among the partners.

Regarding voting rules, decisions are taken:

- At 3/4 of capital for the modification of the social contract, a merger or dissolution.
- At half the capital for the appointment or dismissal of a manager (2/3 if appointed in the social contract), or the method for his remuneration,
- A majority vote of members present, for all other decisions.

In the case of change in the social contract, of merger, or acquisition of another Ltda, any partner opposed to this event can choose to withdraw from the company.

The partners shall meet at least once a year, within four months after the end of the financial year, with the aims of:

- Discussing over and approving the income statement, the balance sheet, and the management of the company,
- Appointing the manager, if necessary,
- Treating any other subject on the agenda.

Once the financial statements are approved without reserve during this Assembly of Partners, managers and members of the Supervisory Board (if any) are exempted from any liability.

SUPERVISORY BOARD

The social contract may provide for the creation of a Supervisory Board ("Conselho Fiscal") of at least three members, who may or may not be partners, but residents in Brazil, and appointed by the partners meeting. A minority partner representing a stake of at least 20% has the right to appoint a member of the Supervisory Board.

The responsibilities of the Conselho Fiscal are:

- Reviewing, at least quarterly, the books and accounts of the company, cash and credit portfolio,
- Presenting at the annual meeting of partners a report on the management of the company,
- Reporting errors, fraud and offenses uncovered,
- Convening the meeting of partners,

Members of the Supervisory Board may see their responsibilities involved, as well as the manager. They may delegate their function. Their remuneration is decided upon during the meeting of partners.

TRANSFER OF SHARES

Unless forbidden by the social contract, a partner may transfer his shares, in whole or in part, to any other partner without informing the other partners.

DISSOLUTION OF THE COMPANY

The law provides for two cases of dissolution of the Ltda:

- When the act of incorporation is cancelled,
- Other scenarios are those arising from the finding of an error, theft, a simulation or fraud upon incorporation.

The contract may provide for other scenarios for the dissolution of the company.

THE PUBLIC LIMITED COMPANY ("SA")

A joint stock company (Sociedade Anônima, or "S.A."), as described in article 1.088 of Brazilian Civil Code and Law 6,404 of 15 December, 1976, is fundamentally a legally constituted business corporation, with capital stock represented by shares.

This is a more complex form than Ltda but provides however much more flexibility regarding the funding arrangements.

The main features that distinguish S.A. are:

- Limited liability for shareholders,
- Detailed regulatory framework,
- Obligation to publish annual financial statements,
- Duty to provide reserves equal to 10% of capital,
- Requirement for a Board of Directors (minimum 2 Brazilian),
- Obligation of an Audit Committee,

An S.A. is identified by a name, followed by the words 'Sociedade Anônima', in full or abridged to S.A.. There are two kinds of S.A.s: publicly traded companies which obtain funds through public offerings and subscriptions which are supervised by the Brazilian Securities Commission (CVM); and closed capital companies, in which case the accounting and administration is simpler.

Depending on the nature of the rights or advantages that they conferred upon their holders, shares may be common, preferred or fruition shares. Aside from essential rights, common shares confer

upon their bearers voting rights; whereas preferential shares, though they entitle their bearer to special rights, may grant or suppress voting rights. Fruition shares confer the bearer the right to continue participating in the corporate profits of ordinary or preferential shares, even upon their amortization, without reduction in capital.

By means of a Shareholder's Agreement, the shareholders may decide issues relating to the purchase and sale of their shares, establish preferential acquisition rights, or exercise voting rights. All obligations set forth in Shareholders Agreement are binding, and must be respected by the Company.

MANAGEMENT

Public stock companies are required to have a two-tiered management structure, composed of a Board of Officers and a Board of Directors. In closed companies, the latter body is optional.

The Board of Directors is a deliberative body, with powers to supervise the company's business and to establish its internal structure. The Board must have at least three directors, all elected at the general annual meeting of the shareholders of the company. Directors may be non-residents, but must be shareholders of the company. Under Brazilian corporate legislation, non-resident directors must appoint a representative who is resident in Brazil, to receive service of process in legal proceedings.

The Board of Officers is an executive body. With powers to conduct the company's day-to-day business, the Board of Officers has exclusive authority to represent the company before third parties. The Board of Officers is composed of at least two members, elected by the Board of Directors, if the Company has one, or by the general meeting of shareholders. All Officers must be resident in Brazil, though they need not be shareholders. They may comprise up to one third of the Board of Directors.

In order to have their securities traded in stock exchanges or over-the-counter markets, public companies must have, in addition to a

Board of Directors, an investor relations officer, responsible for providing information to members of the public who have invested in the company, to the CVM and, if the company is registered with stock exchanges or organized over-the-counter markets, to those entities, in addition to ensuring that the company's registration is up to date, in accordance with CVM Instruction 202/93.

SHAREHOLDERS

Brazilian Corporations Law entitles holders of no less than 15% of the voting shares in a public stock company to elect and/or remove one member (and his substitute) of the Board of Directors, by separate vote at the annual general meeting of shareholders.

The shareholders supervise corporate management by means of the Fiscal Council. The principal purpose of the Fiscal Council is to oversee the company's accounts and management. Such supervision may be permanent or periodic.

Installation of a Fiscal Council reflects the desire of the shareholders to ensure more stringent control over corporate management. It should comprise no less than three and no more than five members, each with a substitute, who may or may not be shareholders, elected by the General Meeting. In certain cases, members of a Fiscal Council represent specific categories of shareholders.

Prior to establishing an S.A., it is strongly recommended to solicit expert advice.

COMPARISON OF LTDA. AND S.A.

Apart from exceptions, the two legal forms chosen by foreign companies are: the LTD ("Ltda") and the PLC ("S.A.").

This choice should not be too difficult. LTD is in most cases the form chosen by foreign companies; it is very common in Brazil and meets the expectations of both small and large businesses. It has the benefits of a PLC, but with more flexibility.

Lists of key differences between Ltda and S.A.

	Ltda.	S.A.
Limited liability	To the value of Limited shares	To the value of capital contributions
Company Name	Name followed by "Ltda" Company	Name followed by "Sociedade Anonima" or "S.A." or preceded by "Companhia" or "Cia"
Types	N / A	Public or Private
Registration	Local Register of Commerce ("Junta Comercial")	Local Register of Commerce ("Junta Comercial")
Transfer of ownership	Change in the Articles of Association recorded in the "Junta Comercial"	Simple transfer of shares
Management	Appointed by Partners	Board of Directors
Entry of a new partner	Possible with the consent of members representing 75% of shares	Shares freely transferable
Audit	No obligation	Mandatory for public Ltd
Board of Directors	No	Minimum two members, who must be resident in Brazil
Board of associate/ shareholders	No	Minimum three shareholders (who need not reside in Brazil)
Audit Committee	Optional	Minimum 3 and maximum of 5 members

BRANCH

A company may organize as a branch in Brazil. However, unless there is a substantial tax advantage in the investor's home country (such as deduction of exchange losses from the taxable income of the head office), the disadvantages of a branch probably outweigh the benefits. It is more difficult to establish a branch, which takes about six months, and the establishment costs are nearly the same as for other business forms. Remittances of profits, including those of a branch, are exempt from withholding tax.

Establishing a branch of a foreign company requires a special authorization issued by the Ministry of Development, Industry and Trade (MDIC). Historically this authorization has been issued on an exception basis. The firm must operate in Brazil under the same name as in the country of origin (it may add the words *do Brasil* or *para o Brasil*), and it must retain a permanent, fully responsible representative (of no particular nationality), whose name must be registered.

To obtain the necessary government authorization, a foreign company must submit documentary evidence of its legal existence, a copy of the articles of incorporation, a list of shareholders, its most recent balance sheet and a copy of the resolution to open a branch in Brazil. The firm must allocate a certain amount of capital to the branch and as noted above appoint a legal representative. All documents must be properly notarized, certified by a Brazilian consul and officially translated.

A branch may not function until it has been registered and its authorization and documentary evidence are published in the *Diário Oficial* and a local newspaper. It must maintain accounts similar to those of an SA and, depending on the bylaws and/or laws of its country of origin, it must publish in Brazil corporate documents, other than its annual financial statements. No annual meeting is required.

A branch in Brazil is taxed at the same rate as a Brazilian company.

JOINT VENTURES

Joint ventures are common-place in Brazil. They are particularly used by foreign companies to participate in tenders or access regulated sectors such as telecommunication and energy.

Ltda. and S.A. are two possible types of companies to achieve a joint venture between a foreign company and a Brazilian company.

A joint venture incorporated as a legal entity is treated as a separate and independent taxpayer. It can elect any of the corporate income tax regimes available to regular legal entities. In the case of contractual joint ventures, tax charges may be mitigated by adopting the contractual arrangements that are best suited to the nature, purpose and duration of the project.

For joint ventures specifically designed for use under the recently enacted special tax regime for ‘angel investor’ structures, Brazilian tax authorities have determined that the payments received in return for the investment will be taxed as if the angel investor had made a loan to the invested legal entity, and the angel investor will not have liability for taxes owed by the invested company.

As the tax treatment of each type of joint venture can vary significantly depending on the joint venture’s purpose, among other factors, it is not possible to give general advice on how tax charges can be lawfully mitigated. Analysis has to be made case by case.

THE TRADEMARK LAW

Brazil is a member of the Paris Convention, the TRIPS Agreement and the Nice Agreement, and, as stated above, intends to accede to the Madrid Protocol.

The Brazilian Constitution includes a trademark clause in Paragraph XXIX of Article 5, which sets out the fundamental rights.

The primary domestic legislation is the Industrial Property Law 19963 (the IP Law), which deals with civil and criminal aspects of trademarks, patents, geographical indications (GIs), patent designs,

industrial designs and unfair competition practices.

The INPI is responsible for registering trademarks and solving trademark disputes. It also maintains a register of licensing agreements on various intellectual property (IP) rights.

Article 124 of the IP Law lists 23 grounds for refusal (absolute and relative). Article 126, Section 2 gives the INPI powers to refuse signs that infringe well-known marks. As well as being able, *ex officio*, to refuse trademark applications on the basis of almost all these absolute and relative grounds (by conducting extensive searches within its trademark database irrespective of any opposition), the INPI has powers to initiate a revocation if a mark is mistakenly approved.

The INPI's powers to review and interfere in the language of registered licensing agreements were subject to criticism and, consequently, Normative Instruction No. 70 (NI No. 70) was issued, limiting the INPI assessments to formal requirements and ensuring that agreements are effective with respect to third parties. With effect from July 2017, therefore, NI No. 70 has required the INPI to take a more liberal approach, thus incentivizing investments in Brazil.

The Brazilian trademark system protects signs capable of being visually perceptible, provided they distinguish the goods or services of one enterprise from the goods or services of other enterprises. Despite having this visual requirement – which would, in principle, exclude non-conventional marks such as sounds and scents from trademark protection – the Brazilian legal system is flexible, permitting the registration of certain non-traditional marks, such as holograms, motions, gestural, position and three-dimensional marks.

To date, there are no sound mark registrations in Brazil because the INPI has taken the view that they are not allowable according to the IP Law. However, trademarks consisting of sounds, scents, colours *per se* can be safeguarded by unfair competition rules.

'Colours and their names, except when arranged or combined in an unusual and distinctive manner, are not registrable as trademarks.' Consequently, distinctive combinations of colours used as marks can be registered, for example Visa's registered mark for the combination of blue, white and gold.

MAIN ACCOUNTING DOCUMENTS REQUIRED

JOURNAL

Corporations must maintain a "Journal", with numbered pages. The Journal must be authenticated by the Register of Commerce ("Junta Comercial") for trading entities, or by the office of civil registry of legal entities ("Registro Civil Cartorio of Pessoas Jurídicas") for service companies.

The deadline for filing and authentication of the Journal is 60 days from the date of the closure of the tax year. By way of introduction, the paper must disclose the following information:

- Name of the company,
- Presentation of the objectives of the Journal,
- The number of pages,
- Address of the head office,
- Number and date of the Acts of Incorporation filed in the Commercial Register,
- National Registry Number of Legal Persons,

The Journal must also be signed by the chief accountant and a legal representative of the company.

LEDGER

Entries in the Ledger must be individualized and maintained in a chronological order.

ASSET REGISTER

At the end of the fiscal year, companies must conduct a physical inventory of finished goods and goods for sale, raw materials, production intermediates, packing, etc...

The physical inventory should allow for the correction of any

discrepancies with the Asset Register. This record must be authenticated by the Register of Commerce.

THE LALUR

The LALUR ("Livro de Apuração do Lucro Real") is the primary tax document. It shows the differences – resulting from inclusions and exclusions provided for by law - between the net accounting income and the taxable income.

It should be bound and the pages numbered. The accounting manager and legal representative of the company must sign it.

The LALUR is mandatory only for entities opting for the 'Real' method of calculating Corporate tax (see Chapter on Corporate tax).

Example of a LALUR - Part A

PART A - REGISTER OF ADJUSTMENTS OF THE NET RESULT OF THE PERIOD				
DATE	H I S T O R I C		ADD	EXCL
	NATURE OF THE ADJUSTMENTS			
31/12/2012	CSLL, recorded in account 3.3.1.02.001:			
31/12/2012	Provision for CSLL		5.068,25	
31/12/2012	Fines recorded in account 3.1.2.05.009:			
05/11/2012	Pago multa guia recolhimento n/data	43,71		
13/12/2012	Pago multa guia recolhimento n/data	18,21	61,92	
31/12/2012	NON DEDUCTIBLE EXPENSES in account 3.1.2.02.015:			
01/11/2012	Pago NF 8877 N.Macedo S/A	250,00		
07/11/2012	Pago NF 8809 Neil Vigren S/A	24,90		
09/11/2012	Pago NF 9900 Interact Ltda	59,50		
12/11/2012	Pago NF 0097 Manutenção Elétrica Forma Ltda	20,00		
14/11/2012	Pago NF 145 Recapadora Simas Ltda	20,00		
20/11/2012	Pago NF 7765 V. Anna S/A	10,00		
27/11/2012	Pago NF 908 K.Karine Ltda	221,79		
12/12/2012	Pago NF 7766 Jabur S/A	10,00		
17/12/2012	Pago NF 5566 Férres S/A	5,00		
26/12/2012	Pago NF 15778 Diveo S/A	14,40	635,59	
31/12/2012	Dividends received recorded in account 3.1.9.05.017:			
14/11/2012	Rec. Dividendos Cia. Brasileira Nacional	950,00		
10/12/2012	Rec. Dividendos Petrobrás S/A	156,00		1.106,00
	TOTAL ADDITIONS AND EXCLUSIONS		5.765,76	1.106,00
31/12/2012	CALCULATION OF THE NET RESULT			
	RESULT OF THE PERIOD			56.784,33
	ADDITIONS:			
	Provision for CSLL		5.068,25	
	Non deductible fines		61,92	
	Non deductible expenses		635,59	
	TOTAL ADDITIONS:			5.765,76
	EXCLUSIONS:			
	Dividends Received			1.106,00
	TOTAL EXCLUSIONS			1.106,00
	NET RESULT			61.444,09
		A Bleuez		
		Contador CRC/PR		

FINANCIAL STATEMENTS TO BE PRODUCED

« Brazilian Taxes” – A. Bleuez

For the purposes of calculating the taxable income, it is required at the end of each tax year, to issue the following:

- Balance sheet,
- Income statement of the year,
- Change in equity.

These three documents are required only for companies with total equities over 2,000,000 R\$.

In addition, the Law No. 11638 of 28th December 2007 made it mandatory for all companies listed on the stock markets, to issue a Cash Flow statement.

Similarly, Ltd companies which have investments in controlled companies must issue the Consolidated Financial Statements, in accordance with Article 249 of Law No. 6.404/76.

To meet the minimum required disclosure of information, companies can publish a financial summary. At a minimum, the following information must appear in the summary statements:

Assets and liabilities:

- Current assets,
- Fixed assets (with details of financial, physical, and deferred assets),
- Current liabilities,
- Accumulated results from previous years,
- Equity (with capital, capital reserves, retained earnings, reserves of revaluation and retained earnings).

Income statement:

- Net sales,
- Gross result,
- Overheads,
- Change in the value of investments based on the equity method,
- Operating income,
- Non-operational results (if significant),
- Provision for corporation tax,
- Net income for the year.

Explanatory Notes:

- Change in accounting methods,
- Investments in other companies, value based on equity method, amount paid for goodwill,
- Interest rates, maturity of long-term debt,
- Number of shares comprising the share capital,
- Amount of previous losses to be carried forward for tax purposes,
- Proposed allocation and distribution of the result,
- Communication of possible comments of the report of the auditors,
- Any other information meaningful and relevant.

The annual accounts and tax returns must be signed by a chartered accountant employed by the company, or by a chartered accountant registered with the Institute of Chartered Accountants of Brazil (CRC).

LEGAL PUBLICATIONS

Corporations must develop and publish all the following documents:

- Report of the Board,
- Financial statements (balance sheet, income statement, change in equity, and for listed companies cash flow statement),
- Convocation to the meeting of Shareholders,
- Minutes of Meetings. Publications must be made in the Official Gazette of the Federal Republic of Brazil, or in the Official Gazette of the Federal State where the company head office is located. If the region where the head office of the company does not have an Official Publication, it will be necessary to choose a publication of general circulation. Before any change in the choice of the publication, it is necessary to inform shareholders during the Annual General Meeting.

The financial statements should allow comparison with figures from the previous year, and must be accompanied by the "Explanatory Notes" necessary to a full understanding of the figures.

ANNUAL GENERAL MEETING

Invitation to the General Annual Meeting ("AGM"): after the end of the tax year, the corporation must hold an AGM within 120 days to approve the accounts.

At least one month prior to the AGM, the company must publicly inform its shareholders about the location where the report of the Board of Directors, the financial statements and the opinion of the auditors have been made available.

Shareholders must be notified at least eight days before the date of the AGM.

The financial statements must be published at least five days prior to the date of the AGM.

The AGM will discuss and deliberate on:

- The work of administrators,
- The review and approval of financial statements,
- The allocation of net result for the year and the distribution of dividends,
- The election of directors and members of the Fiscal Council,
- The approval of any capital increases.

Companies with a limited number of shareholders can easily avoid the usual formalism of convening an AGM, provided that all shareholders (or partners) are present and express their intention to deliberate on the same subject reported in the agenda.

It is possible to vote in writing as long as the statutes do not forbid it.

METHODS OF VALUATION OF ASSETS AND LIABILITIES

The methods used for the valuation and recording of assets are:

TYPE OF ASSET	VALUATION METHOD
Rights and credit other than securities,	Art. 183 At cost or market value whichever is less.
Raw materials, finished products, Intermediate products, packaging,	Art 183 At acquisition or production cost, from which is deduced any provision for adjustment to market value.
Temporary investments in capital of other companies,	Art 183 At cost, from which is deduced a possible provision if the resale price is expected to be reviewed downward.
Long-term investment capital in other companies not controlled,	Art 248-250 At cost, from which is deduced a possible provision if the resale price is expected to be reviewed downward.
Long-term investments of an immaterial amount in the capital of other companies controlled,	Instruction No. 247 of the Securities Commission. At cost, from which is deduced a possible provision if the resale price is expected to be reviewed downward.
Long-term investment of a significant amount in the capital of other companies controlled,	Instruction No. 247 of the Securities Commission. Equity Method.
Other investments,	Art 183 At cost, from which is subtracted any provisions.
Fixed Assets	Art 183 At cost, from which is subtracted depreciation.
Deferred asset	Art 183 At the value of capital, from which is subtracted depreciation.
Liabilities, expenses and risks, known or subject to estimation, including the income tax payable and calculated based on the income statement,	Art. 184. At the present value at the date of the balance sheet.
Liabilities in foreign currencies,	Art 184 These commitments will be translated using the exchange rate prevailing at the balance sheet date, showing a gain or loss in foreign exchange.

Assets are classified in a decreasing order of liquidity. Liabilities due are sorted in descending order.

INTANGIBLES ASSETS

Sales of intangibles are subject to capital gains rules, which means that legal entities must pay IRPJ and CSLL on the positive difference between the sale price and the acquisition cost. The acquisition cost usually corresponds to the book value of the intangible, which comprises the price paid for the intangible or the cost incurred to generate the intangible internally, reduced by annual amortisation, if applicable. As mentioned in question 1.4, the gain is included in the ordinary taxable income of the legal entity in the relevant period; if the costs and expenses incurred in that specific period exceed the revenue (including the revenue derived from the sale of shares), no income taxes will be paid.

In the case of business combination transactions that take the form of a share deal, Brazilian accounting and tax regulations require the allocation of the purchase price to identifiable intangible assets of the target, if any. Upon the merger, the portion of the purchase price allocated to intangibles in the financial statements of the acquirer must be allocated to the corresponding intangible item in the financial statements of the surviving entity. Such portion will be subject to amortisation if the corresponding item is also subject to amortisation.

AUDITORS AND IASB

Since the 1st January 2008, Brazilian companies of large size (total assets exceeding 240 M R\$, or annual gross sales over 300 M R\$) must appoint an auditor.

These thresholds are very high compared to most of Western thresholds. Indeed, in Western Europe, there is sometimes no threshold for SA: all are subject to the obligation to appoint an External Auditor.

This new legal environment has driven Brazilian standards toward international accounting standards of the IASB, mandatory in Brazil since the 1st January 2010.

Financial institutions and other entities under the jurisdiction of the Central Bank ("BACEN"), such as insurance companies, must publish audited annual and half-yearly financial statements.

Here is a list - not exhaustive - of entities subject to an obligation of audit:

- Listed companies, regardless of the segment,
- "Large companies" (turnover higher than R \$ 300 million, or total assets R \$ 240 million),
- Financial Institutions and other entities under the jurisdiction of the Central Bank,
- Investment Funds,
- Stock exchanges and trading places,
- Insurance companies,

The pension funds of financial institutions and insurance companies must also have their semi-annual financial statements audited. The quarterly financial reports of listed entities overseen by the CVM must be reviewed by independent auditors.

The financial statements are audited by an independent auditor registered with the CVM or IBRACON. About half of the audits in Brazil are conducted by international audit firms. The current trend is to increase the number of companies audited, even among those that do not need to be audited. The guarantee of quality resulting from a certification represents a considerable advantage for the Brazilian companies.

THE ASSOCIATION OF CHARTERED ACCOUNTANTS

The Federal Accounting Council (CFC), with its Regional Councils (CRC) located in each of the States of Brazil is the regulatory body that oversees and supervises the profession of accountant. Established in 1946 under Decree Law 9695, the CFC is a special type of government-independent entity, and is responsible for producing guidelines that frame the profession as well as overseeing the professional conduct of its members. CRCs located in the states of Brazil are responsible for the application of the CFC guidelines, the registration of accountants, their monitoring and control. Certified

accounting and regulatory audit can only be performed by professionals or companies registered with a CRC.

ACCOUNTING NORMS

Accounting standards Brazilian standards come under the acronym "NBC" (Brazilian Accounting Standards). The CFC and the Brazilian Institute of Independent Auditors (IBRACON) produce these standards. The Securities Exchange Commission (CVM) applies its rules for listed entities. Since 2005, the CFC and IBRACON have worked together on a convergence plan of Brazilian standards towards international IFRS standards. In this context, IBRACON has translated all the clarified ISA standards, which the CFC has published as Brazilian auditing standards. These new standards became applicable to financial statement audits as of January 1, 2010. As of that date, IFRS was required for the consolidated financial statements of companies whose debt or shares were traded on a stock market.

The CFC has also adopted international standards for auditing, international standards on related services and international quality control standards. IFRS standards are applicable to SMEs since January 1, 2012. The financial statements must include at least: a balance sheet, an income statement, a statement of cash flows and notes to the financial statements. Commercial companies are required to publish annually a balance sheet, an income statement and all the information necessary to understand the financial health of the company. Documents are required within 60 days of the Annual General Meeting of Shareholders.

NOTA FISCAL

The issuance of a formal invoice – named *NOTA FISCAL* - is required; it must accompany the goods to enable them to circulate in the national territory. This must be issued in duplicate and be numbered.

As indicated in the following chapters on the IPI and ICMS, these two taxes are on consumption and are recoverable in the same way as

the internationally well-known VAT. However, to qualify for a credit of IPI or ICMS, it is necessary that the amounts of IPI and ICMS paid are clearly mentioned on the invoice.

For services, the amount of ISS (Tax on Services) will appear in the field "Dados do produto".

ELECTRONIC INVOICE

Since October 2005, the Federal government undertook a vast project of digitization of all invoices issued on Brazilian territory (the "e-bills" are called Nota Fiscal Electronica).

SCOPE OF APPLICATION

Almost all business transactions are concerned. The company size is not a factor to deviate from this new requirement; all must comply.

OBJECTIVES

The main objectives of the establishment of electronic invoices are:

- For the seller: reduced costs (paper, printing, archiving); reduced loss of time of carriers at the borders between the Federal States.
- For the buyer: no more need for manual entries in the accounting systems (subject to software development), reduced data entry errors (they are still possible because of the sender), better logistical anticipation thanks to the early receipt of information contained on the e-bill.
- For the tax authorities: increased reliability of invoices, reduced cost of tax controls, possibility of performing double-checking for controls, and especially a strong improvement in the fight against tax evasion.

OPERATING MODE

The vendor must be previously registered in the tax system in order to issue e-invoices.

The issuer of an e-bill generates an electronic file containing information relating to accounting and business transactions. This file must be digitally signed to ensure data integrity and the identity of the issuer.

This e-invoice is then transmitted over the Internet to the tax

authorities of the Federal State of the issuer (Secretaria da Fazenda) who will create a pre-validation file, and grant permission for use, without which the shipment of goods cannot occur. This pre-validation is normally achieved in less than a minute. Then, the tax authorities put this e-bill at the buyer's disposal (and other interested parties in the transaction) on the Internet. The local tax authorities then forward the e-bill to the federal authorities (Receita Federal), which will centralize and retain the e-bills. In case of a transaction between two Federal States, the e-bill is also sent to the tax authorities of the State of destination of the goods.

A printed copy (called DANFE [Documento Auxiliar da Nota Fiscal Electronica]) of this e-bill must accompany the goods. This document, in a single A4 format, contains the access key to view the e-bill on the Internet and a barcode that will accelerate the control of goods at the borders between the Federal States. This DANFE contains a field that allows the recipient to formalize the correct receipt of goods.

It is the responsibility of the buyer to check systematically the existence of the e-bill, its integrity and its data. For that, thanks to the access key of the e-bill, he can access the electronic management system of the tax administration. It is stated that it is not necessary to print the e-invoice to prove that the control has been achieved.

Controls by the tax authorities before pre-validation relate to the electronic signature of the issuer, the format of the field, the serial number of the invoice and the right to issue an e-bill. All refusals are accompanied by an error code.

These e-bills are also issued in case of export and import.

A company with several production sites in different Federal states of the Brazilian territory will have to register at the sites of each Federal State in order to issue e-bills for each production site.

Upon discovery of an error, it is possible to either cancel the e-bill (within 7 days after original issue), or to issue a complementary e-

bill if the goods had already been shipped.

The preservation and archiving of e-bills remain the responsibility of the company. However, it is not necessary to retain the DANFE.

Smart idea to fight against tax evasion!

When booking a room in a hotel, you may see a sign behind the cash desk saying “Ask for a receipt/invoice”. This is being done throughout Brazil to avoid businesses selling without issuing and registering sales in the accounts. But is this enough to fight tax evasion? Of course not.

This is why most of the 26 Brazilian States have decided to implement a system in order to entice clients to ask for an invoice (Nota Fiscal) as much as possible. Today, by demanding a receipt, clients can make money!

How? Clients inform their CPF to the seller who then inputs the number in the system of the municipal tax authorities. Then:

- They will receive a few ‘centavos’ or ‘reais’ for each declared sale.
- They will also enter into a draw (the amount for each draw is 20,000 R\$ in the State of São Paulo). For the state of SP, the results are made available on www.fazenda.sp.gov.br).

Everything is done via internet applications.

SPED IN BRAZIL

The SPED system is a technological universe that collects all financial, accountant, tax and labour information from Brazilian companies. SPED is composed of 12 modules, with 7 ancillary obligations and 5 different fiscal documents. Having all the information in one place makes it easier for tax authorities to notice any tax evasion or criminal activity by companies.

The five fiscal documents of SPED are electronic invoices that all serve different purposes:

- NF-e: a digital document that validates the operation and

benefits of commercial transactions through the use of digital signatures from both the issuer and the tax administration

- NFS-e: electronic fiscal invoices for goods and services
- CT-e: a digital document for the rendering of cargo transportation services requiring digital signatures as well
- NFC-e: an e- invoice for consumers that are typically a natural person and not a company
- MDF-e: an electronic tax manifest.

The seven ancillary obligations are:

- eSocial: a program to streamline HR and payroll in order to submit all the employee information on a monthly basis
- ECD: the digital accounting bookkeeping documents which are delivered once a year before May 31st
- ECF: this is the digital tax return delivered once a year before July 31st
- **EFD Contribuições**: this is a monthly obligation of reporting digital tax documents to the federal tax authorities (PIS and Cofins)
- EFD-ICMS/IPI: this is a monthly obligation of reporting digital tax documents to the state tax authorities (CISM and IPI)
- EFD-ReInf: digital bookkeeping and monthly reporting of withholdings and information on Social Security contributions
- e-Financeira: this a compliance obligation for banks.

The newest ancillary obligation for businesses in Brazil increases the scope of validation of withholding taxes. It is called Digital Tax Bookkeeping of the Withholdings and Other Tax Information (EFD-REINF) and businesses must submit the bookkeeping of earnings paid and the withholdings of Income Tax (IRRF) and Social Contributions (PIS, COFINS, CSLL, INSS and CPRB). The exceptions are those related to work and information on the gross revenue for the calculation of substituted social security contributions. All companies must report the withholding taxes monthly.

CHAPTER 3 - ISS - TAX ON SERVICES

Since it is controlled by the Municipalities, the rate of *Imposto Sobre Serviços* ("ISS" or Tax on Services) is variable depending on the Municipality where the service provider is located. The rate also depends on the service; and in some case, on the location of the client.

For example, you will find in Appendix 2, the rates of ISS of the Municipality of São Paulo (in Portuguese).

SCOPE

The ISS is a tax which falls within the jurisdiction of Municipalities and covers the services provided by companies, corporations, or by autonomous professionals, as long as the operation is neither within the jurisdiction of the Federation nor the Federal State.

Most of services are within the scope of ISS, but some are within the scope of ICMS (i.e. within the scope of the Federal State). For example, the provision of telecommunications services, production and distribution of electricity, transport, etc.... are not subject to the ISS as it falls within the jurisdiction of the Federation or the Federal States.

The ISS is not due on exports as long as they generate foreign exchange, and if the benefits or consequences of the transaction are manifested abroad.

CITY OF SÃO PAULO TAX AUTHORITIES DECIDE THAT THE SERVICE TAX (ISS) IS DUE ON EXPORT OF SERVICES

On April 26, 2016, the tax authorities of the city of São Paulo published a controversial Normative Opinion (Normative Opinion 2) that states their position regarding the triggering event for ISS tax on the export of services. This new Normative Opinion is the rule tax auditors will follow during audits.

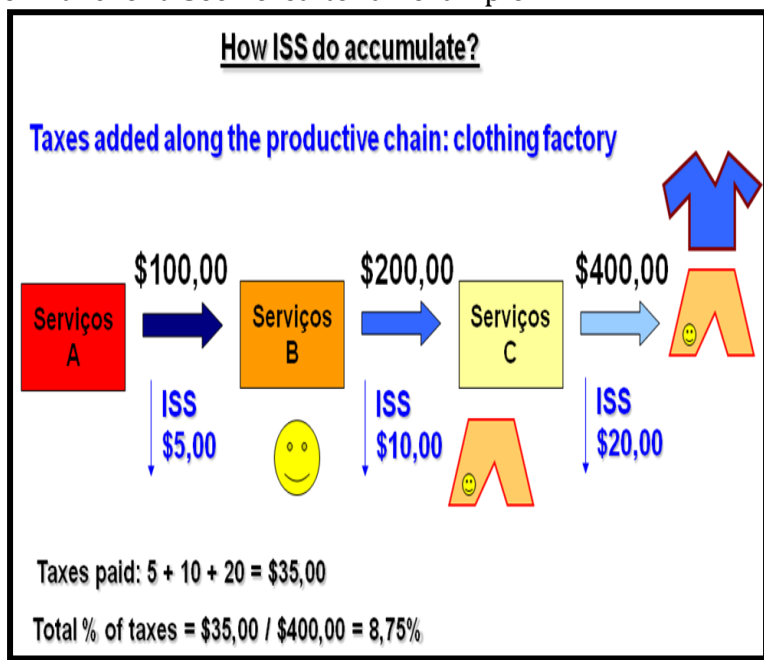
Under tax law, the export of services is not subject to the ISS tax.

However, if the services are performed in Brazil and the results of the services are manifested in the country, then the ISS will be levied. Even though Brazilian legislation does not define what the "result" of a service is, the *tax authorities take the position that the ISS tax exemption applies only if the services are performed abroad*. The tax authorities therefore maintain that if the services are rendered in Brazil, the ISS tax will be due, regardless of whether the benefits or consequences of the transaction are manifested abroad.

By taking this position, the tax authorities have limited the situations in which the ISS tax exemption applies. However, it bears noting that there are arguments to made that this new normative ruling is illegal and that, in some cases, the ISS tax should not be levied when the service is performed in Brazil and its results are manifested abroad.

ISS applies to imports.

There is no right to tax credit. The event is the provision of services. This tax is "cumulative", i.e. the higher the number of companies taking part in the process of production, the higher the tax burden for the final client. See hereafter an example:



TAXPAYER AND LIABLE

The payer of this tax is the service provider. It is usually the service provider's responsibility to collect and pay the tax.

The role of Responsible is present also in the payment of this tax. Indeed, municipalities can assign to clients the responsibility of paying the ISS. For example, the State of São Paulo requires the client to pay the ISS due, if the provider does not furnish neither an invoice, nor a receipt as proof that tax was paid.

The ISS is due to the Municipality where the service is physically provided.

Most of the time, the tax is due to the Municipality where the service provider is based. Nonetheless, for a limited list of services (consult law n°116 31/07/2003), the tax must be paid to the Municipality where the client is based. For example, services of cleaning, security, painting, catering... are physically provided on the clients' premises and therefore ISS is paid to the clients' Municipality.

But since ISS is the main financial resource for the budget of Municipalities, you end up in situations where both Municipalities demand that ISS be paid to them; and some companies decide to pay ISS twice rather than going to court.

In the case of civil construction – for example - the tax is due to the municipality where the service is performed. Thus, a civil construction company with the head-office in the city of São Paulo, that sells its services in 15 other municipalities, will have to pay a separate amount of ISS to each Municipality.

Doing business with a client in the Municipality of SP?

If your company is based outside the Municipality of SP and sells to client based within the Municipality of SP, the following might happen: you send an invoice of 100 R\$ to your client and expect to receive the full payment. But you receive only 95 R\$.

Your client has actually made a consultation of the “Secretaria Municipal de Finanças” and found out that your company is not registered there. Therefore, the responsibility of paying the ISS stands on this client and it has pay the ISS to the Municipality of SP.

Conclusion: if you sell to clients in the Municipality, do register your company in order to avoid double taxation (called ‘bi-tributação’). Here is the link to register:

<http://www.prefeitura.sp.gov.br/cidade/secretarias/financas/servicos/ccm/>

RATE, BASIS FOR CALCULATION AND DEADLINE

The applicable rate depends on each municipality. It is almost always between 2% and 5%.

As this rate depends on them, Municipalities tend to use this rate to compete among themselves in order to entice companies to relocate to within their circumscriptions. The ISS is the main tool for tax competition between municipalities. For example, for most types of services, a company that would leave São Paulo to settle in Alphaville (new city 30Km from São Paulo) would see its ISS rate slashed from 5% to 2%.

The calculation basis is the price of the service. However, in the case of public engineering, some municipalities permit the deduction from the price of services, of the value of materials purchased and consumed (because this value represents the purchase of goods and not services), and the value of invoices of subcontractors if these invoices have already undergone the ISS.

ISS (like ICMS) is calculated ‘por dentro’. This means that for a product of 100 net of ISS tax, the amount ISS included won’t be 105, but $100/0.95 = 105.26$!

VAT in most of Countries is not calculated 'por dentro'. See below the difference and the impact:

VAT method applied in most of countries (assuming a rate of 5%)

Price before tax	VAT 5%		Price after tax
100	*1.05	=	105

ISS applied in Brazil on most of services (assuming a rate of 5%)

Price before tax	ISS 5%		Price after tax
100	*1.0525	=	105.25

The 5% ISS is applied to the gross amount 105.25 :
 $0.05 * 105.25 = 5.25$

The ISS must be paid each month. Deadlines depend on Municipalities. For example, in the city of São Paulo, the deadline is the seventh day of the following month.

RECOGNITION OF ISS

Here is a case study to understand the recording of the ISS. During the month of February 2019, company A has sold services, on credit, to the amount of 10,000 R\$ (*including ISS*), ISS is at 5% or 500 R\$.

- In the service provider's accounts - the entry end of February will be:

Accounting for the sale:

ASSETS

Clients	10,000
---------	--------

INCOME STATEMENT

Sales of services	10,000
-------------------	--------

Accounting for the ISS to pay:

INCOME STATEMENT

Tax on Services (deduction from gross sales)	500
--	-----

CURRENT LIABILITIES

ISS payable	500
-------------	-----

This ISS amount of 500 R\$ must be paid in March.

- In the client's account:

Accounting for the ISS payer:

INCOME STATEMENT

Purchase of services	10,000
----------------------	--------

CURRENT LIABILITIES

Supplier payable	10,000
------------------	--------

If the customer is expected to be in charge of paying the ISS to tax authorities in place of the normal service provider, then entries will be:

Accounting for the ISS payer:

INCOME STATEMENT

Purchase of services	10,000
----------------------	--------

CURRENT LIABILITIES

Supplier payable	9,500
------------------	-------

ISS payable	500
-------------	-----

This ISS amount of 500 R\$ must be paid in March.

ADVERTISING AND PUBLICITY (INCLUDED ON THE INTERNET):
CITY OF SÃO PAULO CHANGES ITS POSITION ON THE SERVICE
TAX (ISS)

Despite of its earlier position that the dissemination, provision and insertion of advertising and publicity on radio, TV broadcasting, websites and billboards are not subject to the Service Tax (ISS), the Treasury Department of the City of São Paulo enacted the Normative Ruling 1/2016 on March 2016, which says these services are subject to the ISS tax. This ruling does not levy the tax on advertising and

publicity in books and newspapers, due to their constitutional immunity under article 150(VI)(d) of the Brazilian Constitution.

We note that taxpayers may be subject to double taxation because the São Paulo State Treasury Office also maintains that these services are subject to the State VAT (ICMS) tax, which was recently confirmed by the Superior Chamber of the Tax and Fees Court of São Paulo (TIT-SP).

However, the issue has not yet been definitively resolved by the courts, even though there are some precedents in similar cases from the State Court of São Paulo (TJ-SP) and the Superior Court of Justice (STJ).

NETFLIX TAX (ISS)

Subscription-based Internet streaming services operating in Brazil are expected to bring a substantial boost to Municipalities as new taxation changes are introduced.

The Brazilian service tax, ISS (which can only be implemented by the municipalities, with revenue going to them rather than to the federal government's bottom line) will see a 2-5 percent increase on online on-demand entertainment services such as those provided by Netflix and Spotify. The "Netflix tax" levy as it is known elsewhere, was approved by President Michel Temer and is effective since 2018.

Home to most online services companies operating in Brazil, the city of São Paulo should be the main beneficiary from the changes, with some R\$22.3m (\$6.5m) in additional tax revenue expected to be generated annually, according data from the São Paulo Mayor's office.

Out of the projected total, about R\$22m (\$6.4m) is expected to come from video subscription services such as Netflix and its Brazilian competitor. ISS revenue for São Paulo across all sectors currently sits at R\$12bn (\$3.7bn) annually.

CHAPTER 4 - ICMS - TAX ON THE MOVEMENT OF GOODS AND SERVICES, ON TRANSPORTATION AND COMMUNICATION

As it is controlled by the Federal States, the rate of *Imposto sobre Circulação de Mercadorias e Serviços* ("ICMS", or Tax on Commerce and Services) varies depending on the Federal State where the service provider is located. It also depends on the product.

For example, you will find in Appendix 3, the rates of ICMS of the State of São Paulo (in Portuguese) with different figures applying to different products.

SCOPE

ICMS is the main tax levied by the 26 Federal states and applies to:

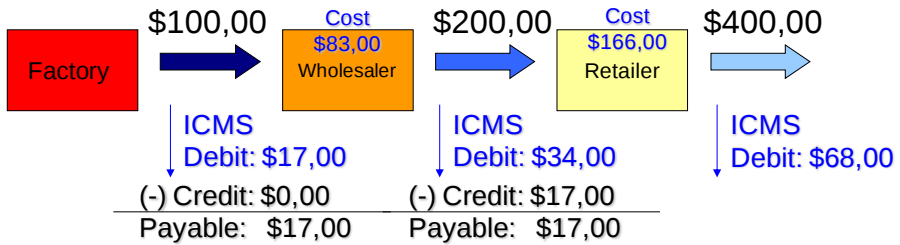
- the movement of goods,
- the services of transportation between several States or municipalities,
- the telecommunications services.

Operationally, similar to the internationally well-known Value Added Tax, the taxpayer is entitled to a tax credit of upto the amount of ICMS that was paid on expenditures incurred by the company previously.

Therefore, this tax is "not cumulative". Thus, when purchasing goods, the ICMS is already included in the price paid to the supplier. Similarly, when the goods are resold, the sale price to be paid by the client will include the ICMS. In this way, all companies whose purchases and sales are subject to ICMS tax liabilities will pay ICMS, which corresponds to the difference between the ICMS levied on the sale, and that paid on purchases.

See below why ICMS is not cumulative:

ICMS taxes on production of beer



Taxes paid: $17 + 17 + 34 = \$68,00$

Total % of taxes = $\$68,00 / \$400,00 = 17\%$

The triggering event is the sale of goods / services including:

- Entry and exit of goods from the establishment of the taxpayer, whether commercial, industrial or producer, even if it is to another facility of the same taxpayer,
- Effective transportation services between Federal States or between municipalities, and communications and telecommunications services,
- Provision of food and beverages at restaurants, bars, cafes and similar establishments.

The Industrial Pole of Manaus ("PIM") has a tax advantage: goods entering the PIM from other Federal States are exempt from ICMS but only if they are to be processed or consumed in the PIM.

TAXPAYER AND LIABILITY

TAXPAYER AND LIABILITY

Unlike the ISS, the seller is solely responsible for the payment of ICMS. Thus, the customer, even if no invoice is provided - is not required to pay ICMS.

BASIS FOR CALCULATION, RATE, AND DEADLINES.

BASIS FOR CALCULATION

The basis of calculation for ICMS is the value of the goods sold, net of unconditional discounts, but includes related costs such as insurance and transportation.

The basis of calculation of ICMS is sometimes affected by IPI (art. 13 de la loi n° 87/96):

For products sold for commercial or industrial purposes, the sale price plus related costs, excluding IPI, will be the calculation basis for ICMS.

For products purchased for internal use or retained as assets in the balance sheet, the calculation basis of ICMS includes IPI.

Example:

The Company "Trade" located in São Paulo, buys – for internal consumption - goods for the price of 100,000 R\$, inclusive of 17,000 R\$ of IPI. The purchase price will also include:

- Insurance 1,000 R\$,
- Transport 1,500 R\$,

Thus in this case, the ICMS will be calculated on the total price of 102,500 R\$.

RATE

The rate - which varies among Federal States - is generally 17% or 18%. It also depends on the type of operation, the destination and the product.

There are also different rates depending on the origin and destination of the transaction: see the list of rates in the 'ICMS between states' table hereafter.

ICMS BETWEEN STATES

DESTINO

	AC	AL	AM	AP	BA	CE	DF	ES	GO	MA	MT	MS	MG	PA	PB	PR	PE	PI	RN	RS	RJ	RO	RR	SC	SP	SE	TO	EX
AC	17	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
AL	12	18	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
AM	12	12	18	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
AP	12	12	12	18	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
BA	12	12	12	12	18	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
CE	12	12	12	12	12	18	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
DF	12	12	12	12	12	12	18	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
ES	12	12	12	12	12	12	12	17	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
GO	12	12	12	12	12	12	12	12	17	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
MA	12	12	12	12	12	12	12	12	12	18	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
MT	12	12	12	12	12	12	12	12	12	12	17	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
MS	12	12	12	12	12	12	12	12	12	12	12	17	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	4
MG	7	7	7	7	7	7	7	7	7	7	7	18	7	7	12	7	7	7	7	12	12	7	7	12	12	7	7	4
PA	12	12	12	12	12	12	12	12	12	12	12	12	12	17	12	12	12	12	12	12	12	12	12	12	12	12	12	4
PB	12	12	12	12	12	12	12	12	12	12	12	12	12	12	18	12	12	12	12	12	12	12	12	12	12	12	12	4
PR	7	7	7	7	7	7	7	7	7	7	7	12	7	7	18	7	7	7	7	12	12	7	7	12	12	7	7	4
PE	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	18	12	12	12	12	12	12	12	12	12	12	12	4
PI	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	18	12	12	12	12	12	12	12	12	12	12	4
RN	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	18	12	12	12	12	12	12	12	12	4
RS	7	7	7	7	7	7	7	7	7	7	7	12	7	7	12	7	7	7	18	12	7	7	12	12	7	7	7	4
RJ	7	7	7	7	7	7	7	7	7	7	7	12	7	7	12	7	7	7	20	7	7	12	7	12	12	7	7	4
RO	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	17,5	12	12	12	12	12	12	12	4
RR	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	17	12	12	12	12	12	12	12	4
SC	7	7	7	7	7	7	7	7	7	7	7	12	7	7	12	7	7	7	12	12	7	7	17	12	12	12	12	4
SP	7	7	7	7	7	7	7	7	7	7	7	12	7	7	12	7	7	7	12	12	7	7	12	18	7	7	7	4
SE	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	18	12	4	
TO	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	18	4	
EX	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	

OR - G E M

Example: the state of São Paulo

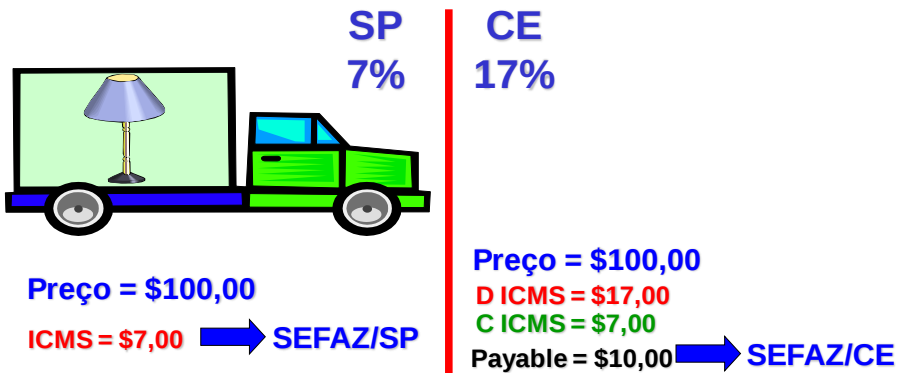
TRANSACTIONS MADE BY A COMPANY LOCATED IN THE STATE OF SÃO PAULO	
Type and destination of the operation	ICMS Rates%
Within the State of São Paulo,	18
To a state located in the North, Northeast and Central West of Brazil, and the state of Espirito Santo (1)	7
To a state located in South and Southeast regions, except the State of Espirito Santo,	12
Transport services,	12
Communication and telecommunication services,	25
Exportation	0

(1) this part of Brazil is relatively poor and is far from the economic center of the country, for this reason, it has a rate of ICMS (7%) lower than in other regions (12%)

Example of a sale from a manufacturer in the State of São Paulo to a client in the State of Ceara:

As indicated in the table here above, a sale from SP to Ceara (part of Northeast region) is taxed at 7%. You can see below that a 7% ICMS tax goes to the SP Tax authorities (SEFAZ/SP) while a 10% ICMS tax goes to the Ceara Tax authorities (SEFAZ/CE). The normal ICMS tax applying in Ceara is 17%, the difference between this 17% and the 7% goes into the Ceara budget.

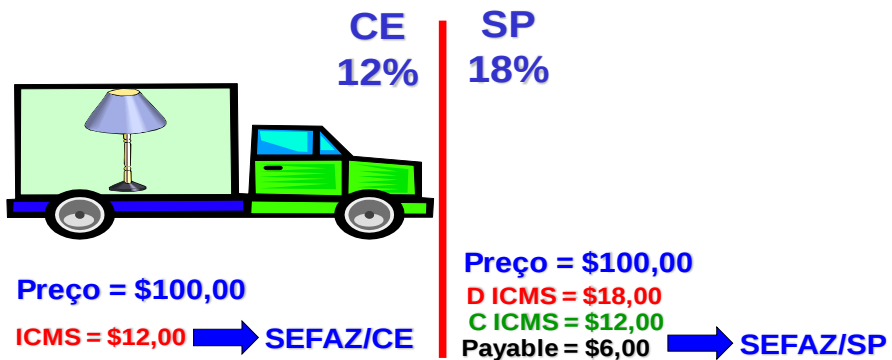
ICMS inter-states: from SP to Ceara



But what happens if a manufacturer based in Ceara sells to a client in SP?

Normally, ICMS in Ceara is 17% as stated above. But ICMS for products made in Ceara and sold to SP get a 12% ICMS. For the same product, at the same price, tax authorities of Ceara and SP get a much different collection of taxes! In the latter example, the Ceara tax authorities collect 12\$R, and the SP tax authorities collect 6 R\$ (the difference between 18% and 12%)!

ICMS inter-states: from Ceara to SP



Federal States sometimes compete to attract investors. Sometimes tax benefits are granted in order to win the investor. One company with a significant investment should contact the Tax Department of various states in order to negotiate tax incentives/breaks.

DEADLINES FOR PAYMENT

The ICMS must be calculated each month. Deadlines depend on the sector of industry in which the firm operates.

‘SUBSTITUÇÃO TRIBUTARIA’

TRANSFER OF TAX RESPONSIBILITY

The transfer of the responsibility of paying taxes (“ST” or ‘Substituição Tributaria’) is developing throughout Brazilian States.

One can see that ICMS is similar to VAT, paid by each economic actor in the process of distribution. Wholesalers and retailers, all of them will pay their share of ICMS. With ‘SUBSTITUÇÃO TRIBUTARIA’, this is different.

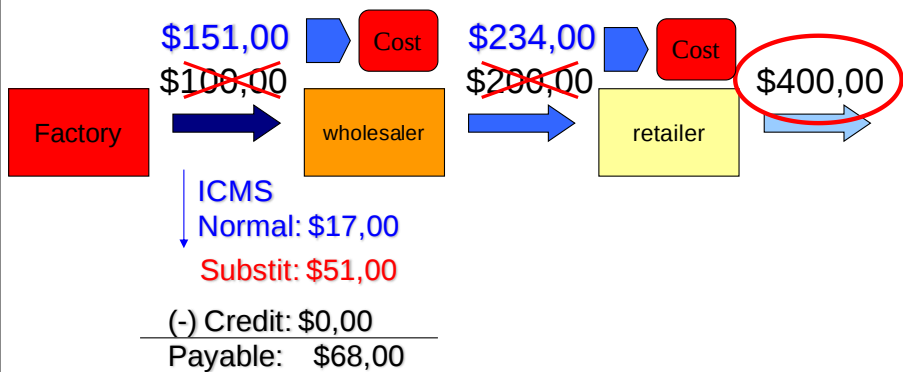
Since some of them might decide to avoid paying taxes, since the Tax Authorities want to implement solutions in order to increase and anticipate tax collection, the ‘SUBSTITUÇÃO TRIBUTARIA’ (« ST ») was created.

This is applicable only to some products. It will also depend on each State.

With ST, the whole amount of ICMS tax is paid upfront, when the products are leaving the factory (i.e. the responsibility is transferred to the producer). As a consequence, wholesalers won't get any amount of debit and credit with ICMS. To assess upfront the right amount of ICMS tax payable, the price of sale to the final client must be known.

This graph shows the cash flows in case of ST. The total of ICMS paid is still the same, but collection is earlier :

See how with substitution, taxes are paid earlier:



LIMITATION FOR ICMS-ST REFUND FOR OVERPAID AMOUNTS IS UNCONSTITUTIONAL

In October 2016 the Federal Supreme Court finalized the trial on the possibility of refund of the ICMS-ST (VAT tax due in a substitution modality and paid in advance by one specific taxpayer of the commercial chain), when the final value of the transaction does not correspond to the price estimated by the legislation.

The Supreme Court considered that, in cases where the legislation defines a higher margin than the actual final price of the goods, taxpayers would be authorized to the refund of ICMS-ST paid in advance.

At the opportunity, the Supreme Court also declared constitutional the São Paulo Law that already provided the possibility of refund, but only for cases of final price fixed in normative acts (the so-called tax schedule, which is a different method of definition of the ICMS-ST basis).

Furthermore, the Supreme Court modulated the effects of its decision, establishing that the refund would be valid only from the trial date onwards - October 19th, 2016.

Following such trial, the State of São Paulo issued several normative (acts, especially the Ordinance n. 14/2018, which provides the possibility of refund of the overpaid ICMS-ST, regardless the method of definition of the ICMS-ST basis (if by added value margin or if by tax schedule), but only from October, 2016 onwards.

On August 7th, 2019, however, the Special Chamber of São Paulo Court of Justice ruled unconstitutional the provisions of São Paulo legislation that only recognized the right to refund in the case of a tax schedule, ruling that the right to refund should be applied in any situation of ICMS-ST tax overpaid (source: mondaq).

RECOGNITION FOR ICMS

Just as VAT, the ICMS paid on a purchase acquires tax credit if the amount is clearly indicated on the invoice. This right to credit expires if it is not used within five years.

Example:

Purchase of goods for resale. Price of 400,000 R\$, including 72,000 R\$ of ICMS (18%).

Resale price of 500,000 R\$.

Recording the purchase:

ASSETS

Goods for resale	328,000
------------------	---------

ICMS credit	72,000
-------------	--------

CURRENT LIABILITIES

Supplier	400,000
----------	---------

Recording the resale:

ASSETS

Client payables	500,000
-----------------	---------

INCOME STATEMENT

Sale of goods	410,000
---------------	---------

ICMS liabilities	90,000
------------------	--------

After this operation, the company has a net liability of 18,000 R\$ ICMS (90,000 – 72,000).

Its income statement will show a profit of 82.000 R\$ (410,000 – 328,000).

For fixed assets, the regulation provides for recovery through monthly amortization of the ICMS paid on the purchase.

Example:

Purchase of a property to be recorded as fixed assets.

Value of property: 100,000 R\$

Value of ICMS: 12,000 R\$

The amount of ICMS paid will be recoverable; it will be separated from the value of the fixed assets.

The complementary Law No. 102/200 allows the recovery of this tax over 48 months by compensating with other ICMS to be paid.

Accounting for recoverable: ICMS

ASSETS

ICMS credit	12,000
-------------	--------

FIXED ASSETS

Fixed asset	12,000
(diminishing the value of the fixed assets)	

Monthly recovery of ICMS $1/48 \times 12,000 = 250$:

ASSETS

ICMS credit	250
-------------	-----

CURRENT LIABILITIES

ICMS liabilities	250
------------------	-----

If the asset was to be sold or scrapped before the end of the amortization period of the ICMS credit (that is to say, before 48 months), then the balance of unamortized ICMS credit is recorded as expenses.

'DEFERRED' ICMS

The ICMS, as previously stated, is non-cumulative, and therefore, does not weigh on the income statement. However, payment of ICMS means additional need for working capital. For example, a company needs to acquire machinery for 100,000 R\$ for a project payable at the end of contract. The ICMS disbursed on that purchase (and other purchases of intermediate goods), can only be recovered at the end of the job.

In order to help these businesses and ease their cash flow, some Federal States (the first was the state of Rio Grande do Sul) have set up, "deferred ICMS" (called "diferimento").

The ICMS deferral is possible only between taxpayers subject to ICMS and located in the same Federal State. It can also be done with a company located in another Federal State on condition that an agreement with that State has been signed.

Where deferred ICMS applies, the purchaser should pay the supplier the amount less ICMS. This deferred payment must be indicated on the invoice.

CHAPTER 5 - IPI - TAX ON INDUSTRIAL PRODUCTS

Since it is controlled by the Federation, the IPI rate is identical throughout the Brazilian territory, but varies according to the product.

SCOPE

The IPI falls under the authority of the Federation and deals with domestic and foreign industrial products.

The triggering events are:

- Output of industrial products at the production site,
- Release after Customs clearance of imported industrial products,

IPI TAXPAYERS

All industrial establishments are IPI taxpayers. Industrials are all entities processing products for all or part of their normal activity. The legal definition of an industrial process is as follows: any operation that changes the nature, operation, presentation, performance or destination of a product (Decree 2.637/98).

BASIS FOR CALCULATION AND RATE

BASIS FOR CALCULATION

The basis for calculation of the IPI is:

- For domestic products, the price of the product leaving the facility,
- For imported products, the customs price, plus importation tax, plus taxes and customs exchange commissions paid by the importer (see section on export to Brazil).

RATE

The IPI is said to be a 'selective' tax. In this sense, its rate is set according to the economic and social utility of the product. Thus, products of an "extravagant" nature, such as perfumes, yachts and luxury cars; or detrimental to public health, such as cigarettes and liquors, are subject to a high rate, whereas 'staple' products benefit from a reduced rate.

The Federal government uses this tax as a stimulus in its economic policies, and supports specific sectors of industry.

For the rate applied to different products, it is necessary to refer to a table made available to the public by the Ministry of Economy. This table (called TIPI for 'Table of Taxes on Industrialized Products') is available on <http://www.receita.fazenda.gov.br> (in Portuguese only) and contains an exhaustive list of different products divided into twenty sections. You will find an example in Appendix 4 (Chapter 88 of the TIPI - in Portuguese).

The IPI should be calculated and paid each month.

EXCEPTION

To encourage and assist Brazilian companies in exporting, the Federation grants an exception. Companies, whose sales are mainly made abroad, may apply to the Federation to benefit from this exception and avoid paying IPI on its purchases (whether produced from Brazilian companies or imported).

A company whose sales from exports were at least 70% of its total turnover before taxes (during the previous calendar year), qualifies for this exception.

Similarly, for goods due to be retained as fixed assets, processed, or consumed in the PIM (Industrial Pole of Manaus), the IPI is suspended, and becomes nil if such use of the product is confirmed.

Special incentives for the Car Industry Rota 2030: Brazil's New Automotive Tax Benefit

On July 6, 2018, President Michel Temer signed a provisional measure that establishes Rota 2030, an automotive industry policy that replaces the previous one, which was known as Inovar Auto.

Rota 2030 establishes a discount on corporate income tax for automakers and auto parts suppliers, as well as the concession of ex-tariff to auto parts to reduce taxation on import transactions to zero, among other measures. These benefits will last five years.

The benefits became effective on January 1, 2019.

RECOGNITION FOR IPI

Just like the ICMS, IPI is "not cumulative". Thus, companies get IPI credit for the purchases of raw materials, packaging and other products incorporated into their own production.

An essential condition to qualify for IPI credit: to have an invoice issued in full compliance with the law, and clearly disclosing the amount of IPI.

The IPI credit is valid for 5 years from the date of issue of the invoice.

It is important to note, that for industrial companies, the IPI is calculated on the basis of the gross price paid inclusive of ICMS.

Calculating IPI with ICMS	
Price with no tax	5.395,00
ICMS (17%)	1.105,00
Price with ICMS (17%)	6.500,00
IPI (10%)	650,00
Total price	7.150,00

$\text{Price with ICMS} = \$5.395,00 / 0,83$
 $\text{ICMS} = \$6.500,00 \times 0,17$
 $\text{IPI} = \$6.500,00 \times 0,10$

Example of accounting for IPI:

Purchase of raw materials for industry, subject to ICMS and IPI of 10%.

Value of raw materials (including 90,000R\$ of ICMS): 500,000 R\$

Net cost of raw materials 410,000R\$

Amount of the IPI @ 10%: 50,000 R\$

Total to pay supplier: 550,000 R\$

As the sale of the finished product will be subject to levies, the company will be entitled to a tax credit of ICMS and IPI.

Accounting for the purchase of raw materials:

ASSETS

Stock Raw	410,000
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ICMS credit	90,000
-------------	--------

Credit IPI	50,000
------------	--------

CURRENT LIABILITIES

Supplier	550,000
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Accounting for the sales of a semi-finished product for the industry, subject to ICMS and IPI of 12% (the rate of the IPI varies according to product, thus a company can face several different rates of IPI):

Accounting for the sale:

ASSETS

Client receivables	784,000
--------------------	---------

INCOME STATEMENT

Sales	574,000
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CURRENT LIABILITIES

ICMS liabilities	126,000
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IPI liability	84,000
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Example of calculation of monthly balances of ICMS and IPI:

Below is a table showing the monthly amounts of purchase and sale of a product subject to ICMS and IPI:

Month	Total purchases (a)	ICMS 18% (of a)	IPI 10% (of a)	Total sales (b)	ICMS 18% (of b)	IPI 12% (of b)
Jan	500,000	90,000	50,000	700,000	126,000	84,000
Feb	800,000	144,000	80,000	300,000	54,000	36,000
Mar	400,000	72,000	40,000	400,000	72,000	48,000
Apr	600,000	108,000	60,000	750,000	135,000	90,000
May	550,000	99,000	55,000	720,000	129,600	86,400
Jun	300,000	54,000	30,000	650,000	117,000	78,000

Result: IPI balances are the following.

Tax Book – Calculation of IPI balance				
Month	IPI collected on sales	IPI disbursed on purchases	Balance of IPI	
			Monthly	Accumulated
Jan	84,000	50,000	34,000 debit	34,000 debit
Feb	36,000	80,000	44,000 credit	44,000 credit
Mar	48,000	40,000	8,000 debit	36,000 credit
Apr	90,000	60,000	30,000 debit	6,000 credit
May	86,400	55,000	31,400 debit	25,400 debit
Jun	78,000	30,000	48,000 debit	48,000 debit

Debit balances accumulated are always paid the following month. Therefore, the 34,000 balance calculated for the month of January, will be paid in early February.

However, credit accumulated balances are offset against debit due during the following months.

Practical information: The "CAIXA DOIS":

La Caixa Dois (literally 'Box 2') can be translated by 'Slush fund'. It is by definition hidden and is used to conceal transactions from the Brazilian tax authorities.

A common practice to reduce the tax burden is to avoid paying taxes on the turnover (unlike VAT, most taxes on turnover cannot be recorded in tax credits). To do this, the company will sell without issuing an invoice, without recording sales in the accounts, and also without cashing the proceeds of this sale. A second bank account will be used to receive the proceeds of the sale. This removes taxes on the turnover and also decreases the taxable result. A useful technique to identify the existence of a slush fund is to analyze the movements of stocks to check that they are consistent with the turnover. The possible existence of a slush fund is a crucial element to study in a due diligence. Fortunately, slush fund is becoming less common today because of the increased controls of the administration.

CHAPTER 6 - PROVISION FOR DOUBTFUL CLIENTS

OVERVIEW

Companies that grant payment terms to their customers are at risk of not receiving the expected settlement at maturity.

To address this possibility, it is recommended - in line with the fundamental principles of accounting - to make provision with the monthly closing, or at least for the closure of annual accounts.

METHODOLOGY

Provisions for doubtful clients are recorded on the balance sheet.

The most common methods for calculating the provision are:

- Determination of a percentage applicable to the total of client payables,
- Separation of clients who settle punctually. Those with a significant delay must have an adequate amount of provision.

Whatever the method used, it is recommended not to use rigid criteria for this exercise.

Thus, determining the amount of provision may vary from company to company, depending on the customer portfolio, the industry, the credit situation in general and economic conditions.

For the amount of provision to be calculated properly, the following factors may be useful:

- An individual analysis of each client balance.
- The experience of the company in previous calculations.
- Any guarantees attached to the clients' payables.
- Overdue clients should merit special attention; therefore, it is necessary to establish an "aged balance" in order to facilitate analysis and decision making.

ACCOUNTING

The recording of provision is conventional and not different from international methods.

Example:

The company "PROV" has an outstanding 500K R\$ of client's payables. The accounting department of the company assessed that losses on these balances may amount to 4%. Therefore, the accounting department ear-marks a provision of 20K R\$.

Recognition of provisions:

INCOME STATEMENT

Charges to provisions /Bad debts	20,000
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ASSETS

Provision for doubtful debts/Declining asset	20,000
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TAX ASPECTS

The making of provision is not tax deductible. Thus, this amount does not reduce the basis for calculating the net taxable income for corporate income tax (IRPJ and CSLL).

On the other hand, the write-off of uncollected debts is deductible:

- If there was a judicial liquidation decided by the competent authorities,
- When there is no warranty, and no limit by client:
 - for debts of up to 5,000 R\$, and overdue for over six months, bankruptcy proceedings or not,
 - for debts of up to 30,000 R\$ and outstanding for over a year, bankruptcy proceedings or not,
 - for debts of over 30,000 R\$ and outstanding for over a year, and provided there are pending procedures for the recovery of sums due.
- With guarantee, when the deadline has lapsed for over 2 years.

Federal Revenue Office Qualifies Debt Forgiveness as Financial Income for PIS and COFINS Purposes. Brazilian legislation states that "general revenues" must be taxed by PIS and COFINS at a 9.25% overall rate, whereas the financial revenues are levied at a 4.65% jointly rate.

Originally, the Federal Revenue Office had issued a Private Letter Ruling stating that debt forgiveness should be considered "general revenue," being taxed at a 9.25% PIS and COFINS rate.

However, this interpretation was recently modified. In a new private letter ruling, tax authorities stated that debt forgiveness related to bank loans should be classified as financial revenues and, thus, be subject to a 4.65% PIS and COFINS overall rate, which is a more favorable rate.

CHAPTER 7 - VALUATION OF STOCKS - ACCOUNTING AND TAX ASPECTS

OVERVIEW

The proper valuation of stocks, especially of goods sold, is critical for correct accounting and tax profit calculation. Indeed, this difference between revenue and cost of goods gives the gross margin.

INDUSTRIAL COMPANY

In an industrial company, inventories consist of the following:

- Raw materials, packaging, and other materials incorporated into the finished product,
- Products 'in-process',
- Finished products ready for sale,
- Saleable by-products.

Determination of the cost of production of finished products:

The total manufacturing cost is the sum of the inputs used to manufacture the finished product. Tax regulations and accounting principles require that all expenses incurred during the production period be recorded as costs of production of finished goods or products "in process". In summary, these are the purchase cost of raw materials up to delivery, (that is to say, including freight, insurance, customs clearance, etc) wages, social charges and other benefit contributions for staff, and "indirect" costs of production.

Regulations define the costs of raw materials and labor as direct costs.

Other costs considered as "indirect" costs of production are:

- Depreciation of assets used in the production process,
- Auxiliary services such as accounting departments, purchasing, logistics, HR, security, cleaning and equipment maintenance, etc...
- Cost of fire insurance for the production plant,
- Utilities expenses such as electricity, water, gas, phone, etc...
- Amortization of software used in the production process.

NEED FOR A COST MANAGEMENT IT SYSTEM

The establishment of a system for the accurate calculation of the costs of production of goods and services meets three requirements.

a) Compliance with the Law of PLC companies:

Law No. 6404, known as the PLC Companies Act, but also applicable to other types of companies, requires that the accounting entries are made in accordance with generally accepted accounting principles in Brazil.

However, the method of calculation of costs of production that respects these accounting principles is the one called "by absorption". Under this method, all production costs, direct and indirect, should be included in the cost of the finished products.

b) Compliance with Tax Law:

Brazilian tax law requires of the company to maintain an integrated cost management system, linked with the general ledger. This requires a formalization of cost accounting by:

1. A cost analysis system,
2. Classification and accounting,
3. Information generation and edition of management reports on costs of production.

c) Addressing the needs of management:

The introduction of cost accounting, which aims to provide the management with information necessary for controlling the activity - including the monitoring of profit margins - is key to the success of any business. With such a system, the issue is not complying with local accounting principles or fiscal constraints, but bringing to the management reliable and relevant information.

The calculation of costs must be supported by figures of general accounting, and must allow the monthly calculation of the value of stocks.

In the calculation of income tax and social contributions, the only accepted method of calculating costs of production is the method "by absorption".

In the absence of the integrated system of calculating costs “by absorption”, the tax authorities may make an arbitrary assessment of stocks of finished and in-process goods.

IMPACT OF ICMS AND IPI ON COSTS OF PRODUCTION AND VALUATION OF STOCKS

In general, non-cumulative taxes that can be recovered should not be included in the cost of goods or raw materials purchased.

Example of a trading business - recoverable ICMS:

A trading company acquires goods for 1,000,000 R\$, including 180,000 R\$ of ICMS, plus an additional 100,000 R\$ of IPI (10%).

Recording the Purchase:

ASSETS

Goods for resale	920,000
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ICMS recoverable	180,000
------------------	---------

CURRENT LIABILITIES

Suppliers	1,100,000
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The ICMS is not included in the cost of goods and can be recovered or offset with the ICMS due on the sales.

In trading enterprises, according to the illustration above, the amount of IPI includes the acquisition cost of goods because the IPI is not due on the resale of goods.

Example of an industrial company - ICMS and recoverable IPI:

An industrial company acquires raw material for 1,000,000 R\$, including 180,000 R\$ of ICMS, plus an additional 100,000 R\$ of IPI (10%).

Recording the sale:

ASSETS

Raw materials stocks	820,000
----------------------	---------

ICMS recover able	180,000
-------------------	---------

IPI recoverable	100,000
-----------------	---------

CURRENT LIABILITIES

Suppliers	1,100,000
-----------	-----------

Here, neither IPI nor ICMS integrate the accounting cost of raw materials, because these two taxes can be recovered or compensated with ICMS and IPI collected on sales.

TAX REGULATIONS FOR CALCULATING THE VALUE OF STOCKS OF FINISHED AND IN PROCESS PRODUCTS.

MOVEMENT OF STOCKS

Brazilian regulations permit the use of average cost, or the First-In/First-Out (FIFO) method, to assess the value of inventories. The Last-In/First-out (LIFO) method is not accepted.

VALUATION OF "INCOMING" PRODUCTS

There are two methods of valuation of stocks:

- The actual cost method by absorption,
- The lump sum tax method,

With the actual cost method "by absorption", the cost of production must include:

- the cost of raw materials, packaging and other products consumed in the manufacturing process,
- the cost of labor used - salaries and benefits - including that relating to the supervision, handling and safety of the production site,
- rental costs, maintenance expenses, and the depreciation of assets used in the process of production,
- the amortization of assets directly used in the process of production, such as dedicated software.

The lump sum tax method:

For finished products: with this method, the cost of production of finished products will be estimated at 70% of the maximum sales price applied during the tax year.

For stocks of in-process goods: the taxpayer may choose to assess the value of in-process goods, either on the basis of the cost of raw materials purchased, or on the basis of the market prices of the finished products:

- the cost of in-process goods must be equal to 1.5 times the maximum cost of raw materials purchased during the year, or,
- the cost of in-process goods must equal 80% of the value of finished products. Because the value of finished products is estimated at 70% of the selling price, the cost of in-process will be 56% (that is to say 80% of 70%) of the maximum selling price of the period.

INVENTORY

The Brazilian Treasury requires all companies using the 'Real' method of profit calculation, to conduct a physical inventory. If there is a permanent inventory, then the physical counting can be made at any time during the year. If, however, there is no permanent inventory, then this counting should be performed at the year end.

CHAPTER 8 - SALARIES AND BENEFITS - INSS

OVERVIEW

Labor law is governed by a code called the CLT ("Consolidação das Leis do Trabalho"). The INSS (National Institute of Social Security) manages the pension system and social security.

Social law is highly developed in Brazil. Although it is quite easy to dismiss an employee in Brazil (certainly easier than in most of countries of continental Europe), regulations grant employees many rights of appeal. Thus, there are nearly 2 million lawsuits filed before the Labor Court each year.

On the other hand, staff turnaround is very high compared to Western standards, this being rather part of Brazilian culture than just the result of macro-economic factors.

THE REFORM OF NOVEMBER 2017

The Brazilian Labor Code has long been criticized by the economic and business community for its many constraints. The reform of the Labor Code (Law 13.467 / 2017 passed in July 2017 and applicable since November 11, 2017) brings significant changes:

- The law provides that the company agreement, like the branch agreement, may derogate from the legislative provisions. Of course, some rights cannot be negotiated (minimum wage, 13th month, weekly rest, number of days off, overtime pay, maternity leave, safety and health standards, freedom of association among the main ones).
- All employees had to contribute to a branch union; this contribution was equal to one day's salary and was deducted from the salary by the employer. There is no longer an obligation for employees to contribute to a union.

- Regarding teleworking (remote work by computer or telematic means), the law excludes the possibility of receiving payment for extra hours worked, even if the employee is controlled remotely.
- The banks of hours, ie the compensation in rest of the realized overtime were possible only in case of agreement of branch. From now on, an individual agreement between employee and employer is sufficient. One condition: compensatory rest must be taken within 6 months.
- If the workplace was difficult to access - a qualifier that is subject to interpretation especially in Brazilian cities with poor transportation services - then the time spent in transport was considered working time. The reform provides that the time spent in transport is not working time.
- Intermittent work was not regulated by the Labor Code. He could not exist in a legal framework. It is now possible to provide a contract with non-continuous periods (hours, days or months worked) and a proportional salary. 3 days before the beginning of the mission, the employer must communicate the conditions and the salary (which cannot be lower than the salary paid for an identical work full-time) and the employee has one day to accept or not this mission. Periods of inactivity between missions are not considered as periods worked and are therefore not remunerated. Holidays, the 13th month and social security contributions remain applicable.
- Premiums, extra cost compensation and daily travel allowances were previously included in the remuneration for the calculation of social security contributions and taxes. Henceforth - according to article 458 of the Labor Code - they are no longer regarded as an integral part of the remuneration and therefore outside the perimeter for the calculation of social security contributions. Premiums are no longer subject to Income tax. In addition, reimbursement of

extra cost is not imposed on the Income tax if they do not exceed 50% of the gross salary. If these compensations exceed 50%, it is all of them - and not the only part higher than 50% - that will be requalified in salary and subject to social charges and Income tax. The daily travel allowances are not taxable to Income tax as they effectively cover transportation, catering and accommodation expenses incurred in another municipality.

- One of the reasons for the high number of lawsuits before the Labor Court was that there was no risk, and no cost for starting a lawsuit: no matter what the result, the employee was never to pay the legal costs. The reform - which introduces Article 791 to the Labor Code - now provides that if the employee loses the lawsuit, it is possible that the lawyers' fees are at his expense. This amount can go up to 15% of the value of the compensation claimed by the employee.

- There is now a ceiling in case of non-pecuniary damage: it is three months 'salary for small damages, and 50 months' wages for major damages. The judge will appreciate what are the small and the big damages.

- Besides, the law recently passed Law 13,429 / 2017 authorizes unlimited outsourcing of services by companies located in Brazil. Prior to this law, only those known as "middle-activity services," i.e., those unrelated to a company's core business, could be outsourced. Under the new rules, companies will be allowed to hire third parties to perform any of their activities, basically through temporary labor supply agreements or simple service agreements. Nevertheless, no matter the case, the hiring company will remain liable for any labor debts that the outsourced company fails to pay to its employees. Other obligations related to the maintenance of minimal acceptable working conditions, such as security and hygiene standards, continue to be the hiring company's responsibility. However, companies are no longer required to

provide outsourced workers the same transportation assistance or meal tickets as they give their own employees.

REGULATORY

For the employment contract to be valid, the following conditions are necessary:

- registration with the INSS,
- establishment of the Fund of Guarantee for the Time in Service (FGTS – Provident Fund),
- entry in the Annual Social Report (RAIS).

The trial period is 90 days.

The employer must maintain and submit annually to the Ministry of Labor, a Social Report ("Relatorio Anual das Informações Sociais" - RAIS).

As for the employee, he must have a personal record book (Carteira de Trabalho, or CTPS), containing the detailed list of past work experience and social security information. This document traces the entire career of the employee (list of employers, positions held, dates of recruitment and breach of contract, remuneration, etc.).

It is a means of proof of the terms of the employment contract, and as such, can replace the permanent employment contract.

The temporary employment contract is allowed but cannot exceed two years. The trial period is limited to 90 days.

THE FGTS

The employer should open for each of its employees a reserve fund (Fund of Guarantee for the Time in Service). The CEF (Caixa Economica Federal) manages the FGTS. Every month, a SEFIP ("Sistema Empresa de Recolhimento do FGTS e Informações à Previdência Social") statement must be issued online via the CEF application. This monthly report contains data on FGTS and Social Security amounts to be paid.

Each month, an amount equivalent to 8% of the gross salary (+13th

month, holidays, and bonus) is paid on this FGTS. This 8% is withheld in the payslips. To make these monthly payments, it is mandatory to use a dedicated application (called GRRF) available on the website of the CEF.

Excepting cases of resignation, when the employee leaves the company, the amount of accumulated FGTS is paid to him/her.

Moreover, there is a severance payment equal to 50% of the accumulated amount of FGTS (40% to the dismissed employee, and 10% to social security).

In case of resignation, the amount of FGTS is not paid to the employee. Nonetheless the employee never loses the benefits of this amount: the accumulated amount is held until the employee faces a future lay off.

Most often, rather than resigning, the employee does negotiate with the employer a dismissal, to obtain the immediate payment of the FGTS. Of course, to have the consent of his employer, the employee will have to bear any additional cost borne by the employer (mainly the 50% severance payment).

3 Case Histories:

An employee is dismissed; the amount of accumulated FGTS is 1,000 R\$:

Lay off:

Amount of the severance for dismissal charged to the company:

$1,000 * 50\% = 500 \text{ R\$}$

Amount of FGTS paid to the dismissed employee: $1,000 \text{ R\$} + 400 \text{ R\$} = 1,400 \text{ R\$}$

FGTS amount paid to the INSS: $1,000 * 10\% = 100 \text{ R\$}$

The company pays 500 R\$.

The employee receives 1,400 R\$

Resignation:

Upon resignation, there is no additional cost to the employer. The 1,000 R\$ will remain held and subsequently paid to the employee.

The company pays nothing.

The employee receives nothing.

Resignation 'disguised' as a lay off:

An employee resigns, but negotiates a dismissal with his employer in order to obtain the immediate payment of the amount of FGTS. The amount of accumulated FGTS is 1,000 R\$:

As in the previous case, the employer will incur an additional cost of 500 R\$. To compensate this, the employee must agree to pay the 500 R\$ to his employer. The FGTS amount received by the employee will be: $1,400 - 500 = 900$ R\$

The company pays $500 - 500 = 0$

The employee receives 900.

Given the level of inflation in Brazil, the immediate payment of the FGTS is often preferred by the employee.

It also happens that the employer may try to take advantage of this situation! Thus, the employer, as a condition to accept a lay off rather than a resignation, may require the reimbursement not just of those extra 500 R\$ paid for severance costs, but 700 R\$ for example (in this case, the employer makes a profit of 200 R\$).

The company gets $700 - 500 = 200$

The employee receives $1,000 + 400 - 700 = 700$

WORK TIMES

The legal working time is regulated by the Labor Code and collective agreements. It cannot be longer than 8 hours daily, 44 hours per week and 220 hours monthly.

The amount of overtime is limited to 2h per day, and is paid at least 50% more. Overtime is not paid to executives.

LEAVE

Leave is 30 calendar days - not 30 working days (4 weeks + 2 days). These leaves are acquired after 12 months of work; thereafter the employee must take his leave within the next 11 months. If he does

not use his leave before 11 months, the company is liable to a fine equal to twice the value of leave not taken.

Before the 2017 reform, leave had to be taken at one time. From now on, the company - with the agreement of the employee - can now divide the holidays into three periods, provided that there is a minimum period of 14 days, and two periods of 5 days minimum, for example it can be $16 + 8 + 6 = 30$ calendar days.

It is an option of the employee and without the need of the employer's agreement to be paid up to one third of his holidays, or 10 days per year.

On the day of departure on holidays, the employee receives his share of salary increased by one third. This third party corresponds to a contribution paid by the company to cover the expenses inherent in vacation periods (eg travel).

Example:

The employee who goes on holiday for 30 days from March 3, will have received his salary in February (at the latest on March 5th), and at the same time will receive at least 2 days before the start of the vacation the salary - increased by one third - corresponding to 30 working days; that is to say 2.33 months of wages cashed in the space of a few days, or even the same day. On the other hand, at the end of March, he will not receive a salary, because it has already been paid at the beginning of the month (at the beginning of these 30 days of leave).

In the case of sick leave, the employer pays for only the first 15 days, beyond which Social Security bears the cost. There is one condition: the employee must have contributed for at least 12 months to the INSS (this condition is not applied in case of accident).

Maternity leave is 120 days.

WAGES

In 2021, the federal minimum monthly wage is 1.100 R\$ (1.045 R\$

in 2020). It is reviewed annually and varies among states and professions. For example, the monthly minimum wage in the State of São Paulo is about 70 R\$ higher than the federal minimum.

Wages of unskilled workers are relatively low compared to Western standards; on the other hand, salaries of executives are higher. It is not uncommon to see a manager earning 10 times more than his/her direct reports. These wage differences partly account for the high level of the GINI index (international index measuring the wealth gap between the first and last decile).

In addition to salary, the company must pay a number of benefits; the most significant are:

- premium on paid holidays: salaries paid during paid holidays are 33% above the normal salary received by the staff,
- the 13th month, paid in two equal parts, in February and in November,
- transport allowance, not subject to payroll taxes, nor taxed on income,
- profit-sharing, not subject to payroll taxes, but taxed as income,
- lunch vouchers,

Moreover, given the poor quality of public health services, many companies choose to offer a health plan ("Plano de Saúde") to their employees.

TAXES AND CHARGES ON LABOUR

The charges on labor are many. In total, an employee can cost up to 100% more than his net wage. An indicative list is presented below:

Compulsory Contributions (in %):

Social Security (INSS)	20
FGTS	8
Financing of Training	2.5
Accidents (average)	2
Sesi / Sesc / Sis *	1.5

Senai / Senac / Senate *	1
Sebrae *	0.6
Incra *	<u>0.2</u>
Subtotal 1	35.80
Time not worked - 1	
Weekly rest	18.91
Leave allowances	9.45
Bank Holidays	4.36
Financing of disability	<u>0.55</u>
Subtotal 2	33.27
Time not worked - 2	
13 th salary	10.91
Charge for breach of contract	<u>3.21</u>
Subtotal 3	14.12
GRAND TOTAL	83.19%

* See glossary

The employer is required to comply with the guide to social welfare, which lists the various payroll taxes.

SIMPLIFIED EXAMPLE INCLUDING INCOME TAX

Assuming that the employee demands a net income of 25.000 R\$, after Income Tax, the cost for the company will be 52.920 R\$; more than twice the amount received by the employee. See hereafter the key numbers of his payslip:

Salary	
Gross salary	33.870,05
INSS employee	430,78
Income Tax	8.439,27
Net salary	25.000,00
INSS cpy	9.754,57
FGTS cpy	2.709,60
13° Month	2.822,50
Holidays	3.763,34
Total cost	52.920,07

Simulations can be done on the following website:
calculador.com.br.

INSS

Social charges are mainly made of INSS (Instituto Nacional de Seguridade Social) charges. The company part of INSS is 20% of the gross salary, without limit.

For the employee, the INSS is 7,5% to 14% of the gross amount, with a maximum amount of R\$ 751,97).

Table of contributions to the Social Security (INSS) 2021

MONTHLY SALARY (R\$)	INSS Rate
Till 1.100,00	7,5%
From 1.100,00 to 2.203,48	9%
From 2.203,48 to 3.305,22	12%
From to 3.305,22 to 6.433,57	14%

Example of calculation for a salary of RS4.000:

R\$ 1.100 x 7,5% =	R\$ 82,50
(R\$ 2.203,48 – R\$ 1.100) x 9% =	R\$ 99,31
(R\$ 3.305,22 – R\$ 2.203,49) x 12% =	R\$ 132,20
(R\$ 4.000 – R\$ 3.305,23) x 14% =	R\$ 97,26
TOTAL =	R\$ 411,27

CPRB

Since 2011, 56 industries have had the option of replacing the 20% payroll tax by a 1% to 4.5% tax on gross revenues ("CPRB": Contribuição Previdenvisória sobre Receita Bruta).

In the context of the economic crisis and aiming to increase its tax revenue, the Government restored in May 2018 the payroll tax for 39 of those industries (Law 13,670), generating widespread opposition from the affected companies and large-scale lawsuits regarding this matter.

PM 905/2019 – Green and Yellow Employment Contract

Starting 01/01/2020, the Green and Yellow employment contract was a new option for hiring executives:

The Green and Yellow program was launched to stimulate job creation to individuals from 18 to 29 years old, as follows:

- Applicable to new hiring of employees, not replacements;
- Hiring limited to up to 20% of the company's employees;
- Base salary up to 1.5 minimum wages;
- Contract with determined term up to 24 months;
- Monthly FGTS (severance fund) reduced from 8% to 2%;
- FGTS penalty may be reduced from 40% to 20%, under agreement, and without the 10% social contribution;

The company is exempt from the payment of social security contributions upon the compensation of the Green and Yellow employment contract employees – reduction of the tax burden around 28.8%.

Due to Coronavirus, the government has suspended this form of contract in April 2020.

RETIREMENT AND DISABILITY

There is no minimum age to retire. Employees are entitled to retirement at the age of 55 (women) and 60 (men). It is also possible to retire after 30 years of contributions for women, 35 years for men. In practice, in 2020, Brazilians retired at age 58.

Brazilian society is facing a demographic transition that will have consequences for future generations. Life expectancy increased from 64 in 1988 to 75 in 2017; by 2050, it will be over 80, the ratio of older to working age population will double and the number of older people will triple.

In addition, the fertility rate decreased from 3.1 in 1988 to 1.75 in 2014. The current rate remains well below 2.1 - considered as the replacement rate of the population.

These changes, which reflect improved health situation, mean that fewer workers will support more retirees. Coupled with the recent years of limited or negative growth and generous pensions for public service employees, Brazil will no longer be able to meet its pension obligations (currently estimated at 2021). Already in 2017, the government has accumulated a deficit of more than 200 billion R\$ in order to meet its obligations in retirement.

These financial problems are further exacerbated by the generous benefits provided to individuals in the public sector. The Brazilian pension system has two different regimes: one for private sector employees and one for former public sector employees. In 2017, although only 3.2% of all pension recipients were former public sector employees, they accounted for 34% of the total deficit. On average, about one million public sector retirees received 8,695 R\$ per month, while 30 million private sector retirees received 1,339 R\$ per month, a significant disparity.

This fiscal imbalance has highlighted the importance of reforming the pension system. The Temer government tried to vote a reform in 2018, the Bolsonaro government has already announced that it would make it a priority.

Finally, it should be noted that there are strong financial incentives (through heavy penalties) to encourage companies to hire people with disabilities. This incentive is so effective that, for the same level of education, staff with disabilities often receive a salary higher than that of able-bodied staff.

TAX OPTIMISATION ON SOCIAL CHARGES AND INCOME TAX

There are some schemes well known in Brazil in order to limit taxes and social charges. The first one 'Turn Consultant' applies to Brazilian workers (or foreigners with an adequate visa), while the second one 'Receive a salary offshore', is used by some expats working in Brazil.

TURN CONSULTANT IN BRAZIL

One classical way of avoiding paying social charges and income tax is for an executive to set up his own company. Most of time, the company will be a Limited company (Ltda), with the "Presumido" or "Simples" method of taxation.

Partners of this company will then be able to be Consultants. Instead of receiving a salary from an employer, they will issue invoices to their clients (Nota Fiscal). The amount charged through the invoices can be decided by both the client and the consultant in order to reach a financial win-win situation. For example, if the amount of taxes saved monthly is 5,000 R\$, they can decide to share the benefits between them, equally or not.

Despite being common practice in Brazil, this solution might not be accepted by the tax administration. In case of control, the auditors might ask the following questions:

- Does the consultant have, and use his own business cards?
- Is he using the consulting company email address while working for his client?
- Does the company provide to the consultant benefits normally offered to its staff?

- Is there a hierarchical relationship?

If the tax administration, after investigation, decides that the relationship between the client and the consultant is actually a social relationship, then it might ask:

- the company to pay all unpaid social charges,
- the individual to pay income tax on his income (because there is income tax on salary, but not on dividends),

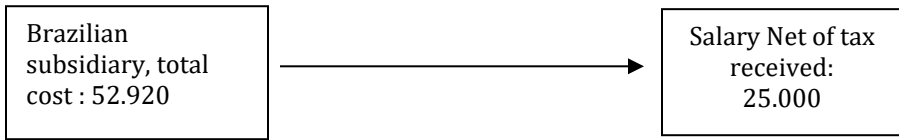
The consultant's Limited company will have to pay Corporate Tax. Then, the consultant will pay himself with the dividend of his Limited company. There is no income tax on dividends.

Example of a comparison:

If an employee making 25,000 R\$ net of income tax, turns consultant and still demands 25,000 R\$, the cost for the company would be 29,879 R\$ (instead of 52,920 R\$). This is a 44% discount for the company. See below the key numbers of the consulting company (the 'turnover' is the total amount charged to the client):

Salary	
Net salary	25.000,00
INSS employee	430,78
Income Tax	8.439,27
Gross salary	33.870,05
INSS cpy	9.754,57
FGTS cpy	2.709,60
13° Month	2.822,50
Holidays	3.763,34
Total cost	52.920,07

Consultant thru Cpy	
Turnover	29.879,29
ISS	1.493,96
PIS	194,22
COFINS	896,38
IRPJ	1.434,21
CSLL	860,52
Net profit	25.000,00

Salary:**Consultant through own company in Brazil:****TURN CONSULTANT AND BE PAID FROM ABROAD**

If the executive decides to open his own company, and is paid from abroad, the cost would be even lower since PIS and COFINS would not apply. This second solution might not be accepted by both Tax Authorities (Brazilian and foreign's).

Consultant thru Cpy (abroad)	
Turnover	28.630,33
ISS	1.431,52
PIS	-
COFINS	-
IRPJ	1.374,26
CSLL	824,55
Net profit	25.000,00



RECEIVE A SALARY OFFSHORE

Some expatriates choose - when the head-office offers this solution - to have part of the salary paid off-shore.

In such a case, the Managing Director (or any other Director of the Management Committee) receives a below market salary in Brazil, paying social charges on this underpriced salary, but on top of that he receives the other part of his salary in another country, be it the country where the head office is located, or any other country.

By doing this, the Managing Director limits the social charges and Income Tax paid in Brazil, and might avoid paying any tax on the salary paid offshore.

Note that Brazilian residents should declare all their income, not just that earned on Brazilian soil. Nonetheless, some might decide not to declare the salary received offshore.

Of course, this scheme is not compliant with law and is not recommended. Doing this is risky; in case of an audit, the Managing Director will need to explain why his salary is below market level, and possibly below his own employee's.

E-SOCIAL

E-Social is a nationwide program that is led by the Brazilian government to streamline the transmission of HR and payroll-related information from companies to the government in a centralized framework. The goal of Brazil's digital initiative is to promote transparency, integrate data collection via a single platform (thus reducing bureaucracy), reduce fraud and make regulatory enforcement actions and audits much easier for the government to conduct. The new platform will give the government of Brazil almost real-time access to employee-related data, allowing them to cross-reference data and quickly find discrepancies and compliance-related red flags. Enforcement investigations and government audits can be done electronically, almost with the push of a button. If you don't have your employee-related compliance efforts in good working condition, the government's electronic platform can easily find out and target you with fines and penalties for regulatory violations.

What will the impact of e-Social be on company compliance and reporting efforts? In a word, huge. The new platform completely changes the way organizations send and present employee-related data to the government. Whereas previously organizations submitted employee-related data on paper, and transmitted said data to a litany of ministries inside the Brazilian government, organizations are now required to submit all data through a single electronic platform. This means organizations must integrate their data collection and data reporting to adapt to e-Social's streamlined approach to collecting employee-related data. Organizations must rethink and standardize the way they manage data in order to fit the needs of the government's new electronic reporting platform.

CHAPTER 9 – CORPORATE TAX

OVERVIEW

The corporate tax in Brazil is composed of IRPJ (Corporate Tax on Legal Persons) and CSLL (Social Contribution on Net Profit).

The overall tax rate is:

IRPJ 25%

CSLL 9%

Overall tax rate = 34%

Specifically, the IRPJ 25% is split into two parts:

- a rate of 15% applies to the net profit,
- a rate of 10% applies to the amount of monthly net profit exceeding 20K R\$ (or to the amount of quarterly net profit exceeding 60K R\$).

The CSLL is intended to finance Social Security. The rate of CSLL is 9%, except for financial institutions, which bear a rate of 15% (since 2008).

IRPJ and CSLL apply to any entity except:

- Non-profit Educational Institutions,
- Social welfare institutions,
- Political parties,
- Labor unions.

The basis for calculating the amount of tax can be the "ACTUAL" (REAL), the "ESTIMATED" or "DEEMED" (PRESUMIDO), the "SIMPLE" (SIMPLES) or the "ARBITRARY" profit.

Current legislation does not provide a definition for these four profits. However, they specify when and how to apply one or the other method. The choice of method depends on the turnover achieved in the previous year; this choice cannot be amended during the year.

A company with a turnover of or above 78M R\$ must use the ACTUAL profit method ("regime real").

Companies with a turnover of less than 78 M R\$ will be subjected to the ESTIMATED method ("regime presumido") or to the SIMPLES method ("regime simples"). See below the thresholds for the three most used methods.

Turnover over 78M R\$	→ « Real » system,
Turnover between 4.8M and 78M R\$	→ « Presumido », or « Real » system,
Turnover below 4.8M R\$	→ « Simples », Presumido », ou « Real » system,

The ACTUAL profit method is mandatory - regardless of the amount of revenue - for financial institutions (building societies, insurance companies, financial intermediaries ...), companies specializing in risk management and recovery (mainly companies engaged in factoring services).

For some activities, there is no option between tax system. This list is available – in Portuguese only – on this site :
<http://www.cnae.ibge.gov.br/>.

Since the option is possible with respect to the calculation of profit, and consequently, the method of calculation of corporate tax, simulations are vital to determine which method is the most advantageous.

"SIMPLE" METHOD (SIMPLES)

This method is an option for small and medium-sized enterprises. It is easy to apply and the tax rates are relatively low.

CONDITIONS

Many conditions must be satisfied for the company being authorized to opt for this method, the main one being having a maximum of 4.8M R\$ in total sales during the year.

In addition, there are restrictions. A company cannot opt for the SIMPLES in the following situations:

- If there are one or more legal entities among its partners,
- If the company itself controls another corporation,
- If a partner is resident abroad,
- If a partner has shares in another company opting for SIMPLES, regardless of the percentage of its holdings, unless the total turnover of the two companies does not exceed the statutory threshold of 4.8 M R\$,
- If a partner has 10% or more shares in a company opting for ACTUAL or FORCAST scheme, and if the total of turnover of both companies is over 4.8 M R\$,
- If the activity of the company is consulting, intellectual services, technical, scientific, sporting, artistic, regulated or unregulated (Complementary Law No. 139 of 2011).

To find out whether your activity is compliant with this method, go to <http://cnae-simples.net/>. Beforehand, find the code of your activity in the 'CNAE' (National Classification of Economic Activities) website.

TAXATION

The legal person subject to this method declares and pays monthly, with a single document, all taxes due (whatever there are, relevant to Federation, to Federal States, or to Municipalities).

The tax rate is different depending on the activities and on the amount of total sales.

The SIMPLES means that all the following taxes will be paid through a single document:

- Income Tax – IRPJ,
- Tax on Industrialized Products - IPI,
- Social Contribution on Net Income – CSLL,
- Contribution to Social Security Financing - COFINS,
- Contribution to PIS / Pasep,
- Tax on goods and some services (Intermunicipal Transportation and Communication) – ICMS,
- Tax Services of any kind - ISS.

Method of calculation

The companies opting for the SIMPLES method must apply different rates depending on whether they are industrial, commercial, or service.

The rate depends on the turnover made over the last 12 months. There are 5 tables: one for industry, one for trade, three for different types of services. We reproduce below the table IV. These tables are updated on January 1st of each year.

Summary of tax rates on sales by sector:

- Trade: 4% to 11.61%,
- Industry: 4.5% to 12.11%,
- Service: 4.5% to 27.90%.

Example of a service company:

The DELTA company has a gross turnover of 25,000R\$ in July and want to calculate - early August - the amount of tax due. DELTA has made over the last 12 months (rolling) a turnover of 220,000 R\$. The table below shows that the applicable rate for this level of turnover is 6.54%.

This rate will be applied to the July turnover:

$$6.54\% * 25,000 = 1,635 \text{ R\$}$$

The amount of 1,635 R\$ covers IRPJ, CSLL, PIS, COFINS and ISS (it is possible to read from the table below the split of these 6.54% between different taxes).

'SIMPLES' Table IV - Service

Gross Turnover over the last 12 months	Rate	IRPJ	CSLL	Cofins	PIS	ISS
Till 180K	4,50%	0,00%	1,22%	1,28%	0,00%	2,00%
From 180K to 360K	6,54%	0,00%	1,84%	1,91%	0,00%	2,79%
From 360K to 540K	7,70%	0,16%	1,85%	1,95%	0,24%	3,50%
From 540K to 720K	8,49%	0,52%	1,87%	1,99%	0,27%	3,84%
From 720K to 900K	8,97%	0,89%	1,89%	2,03%	0,29%	3,87%
From 900K to 1.080K	9,78%	1,25%	1,91%	2,07%	0,32%	4,23%
From 1.080K to 1.260K	10,26%	1,62%	1,93%	2,11%	0,34%	4,26%
From 1.260K to 1.440K	10,76%	2,00%	1,95%	2,15%	0,35%	4,31%
From 1.440K to 1.620K	11,51%	2,37%	1,97%	2,19%	0,37%	4,61%
From 1.620K to 1.800K	12,00%	2,74%	2,00%	2,23%	0,38%	4,65%
From 1.800K to 1.980K	12,80%	3,12%	2,01%	2,27%	0,40%	5,00%
From 1.980K to 2.160K	13,25%	3,49%	2,03%	2,31%	0,42%	5,00%
From 2.160K to 2.340K	13,70%	3,86%	2,05%	2,35%	0,44%	5,00%
From 2.340K to 2.520K	14,15%	4,23%	2,07%	2,39%	0,46%	5,00%
From 2.520K to 2.700K	14,60%	4,60%	2,10%	2,43%	0,47%	5,00%
From 2.700K to 2.880K	15,05%	4,90%	2,19%	2,47%	0,49%	5,00%
From 2.880K to 3.060K	15,50%	5,21%	2,27%	2,51%	0,51%	5,00%
From 3.060K to 3.240K	15,95%	5,51%	2,36%	2,55%	0,53%	5,00%
From 3.240K to 3.420K	16,40%	5,81%	2,45%	2,59%	0,55%	5,00%
From 3.420K to 3.600K	16,85%	6,12%	2,53%	2,63%	0,57%	5,00%

Example of an industrial company:

The INDU company had a gross turnover of 100,000 R\$ during the month of July and wants to calculate - early August - the amount of tax due. INDU realized over the last 12 months (rolling) gross sales

of 1.2M R\$. The table below shows the rates applicable for this turnover is 8.86%.

This rate will be applied to the July turnover:

$$8.86\% * 100,000 = 8,860 \text{ R\$}$$

The amount of 8,860 R\$ covers IRPJ, CSLL, PIS, COFINS, ICMS and IPI.

Extract from Table II – Industry:

Split of those 8,860R\$								
	Rate	IRPJ	CSLL	COFINS	PIS	CPP	ICMS	IPI
< 1,260,000	8,86%	0,39%	0,39%	1,16%	0,28%	3,30%	2,84%	0,50%
100.000	8.860	390	390	1.160	280	3.300	2.840	500

'SIMPLES 'Table II- Industry

2020 Gross Turnover	Rate	IRPJ	CSLL	Cofins	PIS	CPP	ICMS	IPi
Till 180K	4,50%	0,00%	0,00%	0,00%	0,00%	2,75%	1,25%	0,50%
< 360	5,97%	0,00%	0,00%	0,86%	0,00%	2,75%	1,86%	0,50%
< 540K	7,34%	0,27%	0,31%	0,95%	0,23%	2,75%	2,33%	0,50%
< 720K	8,04%	0,35%	0,35%	1,04%	0,25%	2,99%	2,56%	0,50%
< 900K	8,10%	0,35%	0,35%	1,05%	0,25%	3,02%	2,58%	0,50%
< 1.080K	8,78%	0,38%	0,38%	1,15%	0,27%	3,28%	2,82%	0,50%
< 1.260K	8,86%	0,39%	0,39%	1,16%	0,28%	3,30%	2,84%	0,50%
< 1.440K	8,95%	0,39%	0,39%	1,17%	0,28%	3,35%	2,87%	0,50%
< 1.620K	9,53%	0,42%	0,42%	1,25%	0,30%	3,57%	3,07%	0,50%
< 1.800K	9,62%	0,42%	0,42%	1,26%	0,30%	3,62%	3,10%	0,50%
< 1.980K	10,45%	0,46%	0,46%	1,38%	0,33%	3,94%	3,38%	0,50%
< 2.160K	10,54%	0,46%	0,46%	1,39%	0,33%	3,99%	3,41%	0,50%
< 2.340K	10,63%	0,47%	0,47%	1,40%	0,33%	4,01%	3,45%	0,50%
< 2.520K	10,73%	0,47%	0,47%	1,42%	0,34%	4,05%	3,48%	0,50%
< 2.700K	10,82%	0,48%	0,48%	1,43%	0,34%	4,08%	3,51%	0,50%
< 2.880K	11,73%	0,52%	0,52%	1,56%	0,37%	4,44%	3,82%	0,50%
< 3.060K	11,82%	0,52%	0,52%	1,57%	0,37%	4,49%	3,85%	0,50%
< 3.240K	11,92%	0,53%	0,53%	1,58%	0,38%	4,52%	3,88%	0,50%
< 3.420K	12,01%	0,53%	0,53%	1,60%	0,38%	4,56%	3,91%	0,50%
< 3.600K	12,11%	0,54%	0,54%	1,60%	0,38%	4,60%	3,95%	0,50%

Due to numerous constraints, this SIMPLES scheme is obviously impossible for an international company. On the other hand, it is interesting for entrepreneurs!

Companies using the SIMPLES method do not have to withhold taxes (see the relevant chapter) and do receive the whole amount charged to client (i.e. clients do not withhold taxes neither). Consequently, there is no need to issue a DARF.

"ESTIMATED" METHOD (PRESUMIDO):

This is a simplified calculation of taxable income. This regime is only possible for companies that do not have to select the ACTUAL profit method.

The choice of the ESTIMATED method rather than the ACTUAL profit method is only possible for industrial, commercial, or service companies, whose gross annual turnover does not exceed 78M R\$. The estimated profit should be calculated at the end of each calendar quarter.

To calculate the gross annual turnover, the following should be excluded:

- non-cumulative taxes,
- sales cancelled,
- unconditional discounts.

Method of calculation:

Companies subject to this method must determine a ESTIMATED result by applying a set of percentages to their gross turnover. For the IRPJ, these rates are:

- 1.6% for companies selling fuel and natural gas,
- 8% for industrial and commercial enterprises, medical services and industrial transport,
- 16% for other transport services,
- 16% for financial institutions.
- 32% for services,

For the CSLL, these rates are:

- 12% for industrial and commercial enterprises, medical services and industrial transport,
- 32% for services, except medical services and transport,
- 32% for management, sale, purchase, and renting real estate,

For multi-business companies, it will be necessary to apply the respective percentages to each business.

Once the estimated profit is calculated, the company will add to this result the gains from the disposal of assets, financial income and extraordinary income. Once these additions are made, it is possible to calculate the tax due.

The corporate tax (IRPJ) is calculated by applying the rate of 15% to the basis computed (projected profit, gains on disposal of assets and other income). Besides this 15%, there is an additional 10% that applies on the following basis: quarter result minus 60K R\$. I.e. if the quarterly result is below 60K, the additional is not due.

The second leg of the corporate tax (CSLL) is calculated by applying 9% to 32% (for companies selling services) of the turnover. See below for an estimate of the total taxes on turnover for a company offering services:

<u>Service Company & Presumido method</u>			
Taxes	Base of calculation	Rate	Subtotal
Corporate tax (CSSL)	32%	9%	2,88%
Corporate tax (IRPJ)	32%	15%	4,80%
Social tax (PIS)			0,65%
Social tax COFINS)			3,00%
Taxes on services (ISS)			5,00%
Total taxes on turnover			16,33%

Corporate Tax (Presumido with additional)	
Gross Turnover	4.500.000
Base "Presumido"	8%
Result Presumido on Turnover	360.000
Gain on sale of assets	100.000
Result Presumido	460.000
IRPJ Normal (15%)	69.000

Calculation of the Additional	
Result Presumido	460.000
- threshold of additional -	(60.000)
Base of calculation of additional	400.000
Additional Tax (10%)	40.000
Corporate Tax: total of IRPJ Normal (15%) and additional (10%)	
IRPJ Normal (15%)	69.000
IRPJ Additional (10%)	40.000
IRPJ Total	109.000

"ACTUAL" PROFIT METHOD (REAL):

This profit is the result of consolidated accounting entries, called "Accounting result" adjusted with required additions and deductions (non-deductible expenses and non-taxable incomes) to arrive at the net result before tax. The adjustments made to derive the net result before tax, must be detailed in a separate document called "Lalur", and kept available to the Brazilian tax authorities.

Major additions to the accounting result:

- Losses resulting from the change in value of the participation in subsidiaries (using the equity method),
- Diminution of the reserve of valuation,
- Non-deductible expenses,
- Non-deductible provisions (such as those on clients receivable),

Key deductions:

- Gain resulting from the change in value of the participation in subsidiaries (using the equity method),
- Received dividends,
- Reversals of non-deductible provisions.

AMORTIZATION OF GOODWILL IS DEDUCTIBLE FROM CSLL CALCULATION BASIS

The Higher Chamber of the Administrative Tax Appeals Council ("CSRF") has recently ruled that the amortization of the goodwill derived from the acquisition of investments is a deductible expense from the Social Contribution on Net Profit ("CSLL"). The court held that taxpayers can deduct the amortization of goodwill from the CSLL tax regardless of whether there is a merger.

Under the decision, the legal rule that this expense is non-deductible from corporate income tax is not applicable to the CSLL tax calculation basis. According to the court, the calculation bases of these two taxes are not identical, which means that the corporate income tax rules do not automatically apply to the CSLL tax. Thus, since there is no specific legal ground for treating the amortization of goodwill as non-deductible for the purposes of the CSLL tax, taxpayers are allowed to deduct it.

The actual outcome may, depending on the choice of the company, be calculated quarterly or at the end of the tax year.

Quarterly calculation:

After having calculated the quarterly accounting result, the company will add gains on the disposal of assets, financial income and extraordinary income. Once these additions are made, it is possible to calculate the tax due.

The tax is calculated by applying the rate of 15% to the basis of calculation: accounting result, adjusted with additions and deductions, plus gains and losses on the disposal of assets, and other income. On top of this 15%, there is an additional 10%. This 10% is applied to the amount of quarterly taxable result exceeding 60K R\$.

The following must be deducted from the basis of calculation:

- Tax benefits granted by the authorities,
- Corporate Tax (IRPJ and CSLL) paid or retained at the source on billings and already included in the calculation of net profit,

Payment is made in one time, before the end of the month following the end of the fiscal quarter. It may be paid - optionally - in three monthly installments, in which case an interest will be applied (interest rate "Selic").

Yearly calculation:

Companies can choose to calculate their taxable income on an annual, rather than on a quarterly basis. However, the payment of tax is made each month (the deadline is the last business day of the following month). In this case, companies, in order to determine the amount to pay, must not base the calculation of tax due on the amount calculated the previous year (as in many Western countries), but must calculate an estimated result, based on the turnover of the current year.

The calculation of the estimated corporate tax is made from the gross turnover (plus, where applicable, gains/losses on disposal of assets, and other income received) of each activity, to which we apply the following rates:

- 8% for industrial and commercial enterprises,
- 32% for services,
- 1.6% for companies selling fuel and natural gas,
- 8% for medical services and industrial transport,
- 16% for other transport services,
- 16% for financial institutions.

These rates apply to the turnover (from which must be withdrawn cancelled sales, unconditional discounts, and IPI tax collected on sales).

To the outcome of this first calculation, it is necessary to add the gains on the disposal of assets, financial income and exceptional income.

The difference between the amount of monthly tax paid, and the final amount calculated after the closure of the tax year, will be a "correction" to be settled the following year. The amount of this "correction" must be communicated through a dedicated software application available on the website of the Treasury.

Why select the quarterly rather than the yearly calculation; or vice versa? See here below two advises:

Seasonal or stable activity?

Caution! For the quarterly method, the quarterly results cannot be offset.

Thus, for example, if the first 2 quarters showed a profit, they will be subject to a tax payment. If the 3rd quarter is a loss, this loss will not be offset by the profits of the first two quarters (you won't get back the corporate tax paid over those two quarters). However, this loss may be offset against the profits of the 4th quarter (in the limit of 30% of the profits of the 4th quarter - see section below on the report of losses).

Consequently, with the quarterly calculation, a company that during the same tax year goes through positive (profit), and negative (loss) quarters, will pay more tax than the one that has opted for an annual calculation.

1st rule: a company with a seasonal level of profitability might select the annual method of calculation of profits.

High or low profitability?

Imagine an industrial company with a net rate of return of 16% on its sales. According to the 'annual' profit method, and assuming that the total sales reach 100K R\$, this company shall have a calculated result of 8% of total sales. The corporate tax will be calculated on this 8K R\$ profit and paid through monthly installments during the year. If the company had opted for the 'quarterly' calculation, its tax base would be twice larger, since it would have been 16% of total sales: 16K R\$!

Obviously, there will be an adjustment at the beginning of the following year. But the cash would have been better managed throughout this period, and given the cost of money in Brazil, a significant amount of interest would have been saved.

2nd rule: a company with a very high profitability (higher than those expected from the tax rules) will be better off selecting the 'annual' profit method.

CARRY FORWARD OF LOSSES

In the case of accumulated net losses in the balance sheet, it is possible to reduce the current year's corporate tax by offsetting current profit with past losses.

Past losses can be applied to reduce future Corporate Tax, and must be disclosed and explained in the LALUR.

The use of previous losses in order to decrease the current year's tax burden is limited to 30% of the current year's net profit.

For example, a company making a 100 R\$ profit during the year 2020, and with a 200 R\$ accumulated loss in the balance sheet, will be authorized to decrease its basis of calculation by a maximum of 30 R\$. Corporate tax will be calculated on 70 R\$. There will be 170 R\$ left of accumulated loss, which could be used during the following years.

Example:

1. 2020 Taxable net result – before compensation of prior years' losses	100,000
2. Prior years' losses - Part B of the LALUR	200,000
3. Maximum amount of prior years' losses used (100.000 x 30%)	30,000

There is no time limit to use these accumulated losses.

As mentioned above, for the method of quarterly calculation of taxable income, each quarter is considered a separate period. This means that – within the same fiscal year - the Corporate Tax paid with respect to one quarter cannot be offset against following quarters. So with the quarterly method, you might end up with a higher tax burden (but you get a tax credit)!

The retroactive compensation for losses is not permitted.

Example of calculation of Corporate Tax:

Calculation of earnings "ACTUAL" net IRPJ and CSLL Activity: Industry, trade and service

Sales of finished products		20,000
Resale of goods		20,000
Services		20,000
Total sales:		60,000
Deductions from sales		
PIS	742.5	
COFINS	3,420	
ISS	1,000	
ICMS	5,400	
		(10,562.5)
Total sales net of tax:		49,437.5
Costs		
Cost of Production	5,000	
Cost of merchandise sold	5,000	
Cost of services provided	5,000	
Administrative costs and taxes	4,000	
Financial incomes and expenses	1,000	(20,000)
Net profit excluding exceptional		29,437.5
Non-operating income		
Sale of assets	9,000	
NBV of assets disposed	(5,310)	3,690
Profit before tax		33,127.5
Nondeductible expenses	1,100	
Dividends received	(100)	1,000
Net income		34,127.5
Previous losses carried forward		(1,000)
Net taxable income		33,127.5
Provision of IRPJ (15%)	(4,969.1)	
Provision of additional IRPJ (10%)	0	
Provision of CSLL (9%)	(2,981.5)	(7,950.6)
Net profit after tax		25,176.9

CHOOSING BETWEEN REAL AND PRESUMIDO METHOD:

As long as the Turnover is below 78M R\$, one can choose between the ACTUAL or the ESTIMATED method the one that gives the lowest amount of Corporate Tax.

The choice must be done every year and before the 25th of February. PIS and COFINS taxes related to January turnover are due on 25th of February; when paying these taxes, a Specific code is selected (8109 and 2172 for a Cpy selecting Presumido) and related to the Turnover of January.

Let's see through examples the basic criteria in order to select the best method:

Example 1:

Here below is a plain vanilla comparison for a service company. For services, it is a 32% rate that must be applied to the Turnover (1,000,000 R\$) in order to estimate the ESTIMATED result. Applying the 34% Tax on those 320,000 R\$ makes 108,800 R\$ of Tax (it was decided in this example not to take into consideration the 20,000 monthly threshold used for the additional Corporate Tax).

In this example, it's obvious that the ESTIMATED method is not the right choice, since the company will pay a Corporate Tax of 108,800R\$ in spite of an actual 0 R\$ return!

SIMPLIFIED EXAMPLE OF COMPARISON BETWEEN REAL AND PRESUMIDO		
SERVICE CPY	Year 2016	
	REGIME REAL	REGIME PRESUMIDO
Total income	1.000.000	1.000.000
sales	1.000.000	1.000.000
Total expenses	1.000.000	1.000.000
rent	60.000	60.000
wages	800.000	800.000
travel	50.000	50.000
telecom	90.000	90.000
Result	0	320.000
Corporation tax	0	108.800

Example 2:

Here below is a 7 years Business Plan for a startup Service Company, with Corporation Tax calculated as per ESTIMATED and ACTUAL method.

In this example, we take into account the “Loss carried forward”, another advantage of the ACTUAL method.

In red, we highlighted the highest amount of tax. From 2013 till 2017, applying the ESTIMATED method gives a higher amount of Corporate Tax. Subsequently, in 2018 (and probably for the following years) the ACTUAL method gives a higher amount of Corporation Tax.

REGIME PRESUMIDO (SERVICE CPY - 32%) - 7 YEARS BUSINESS PLAN							
	2012	2013	2014	2015	2016	2017	2018
Total income	0	200.000	500.000	1.000.000	1.500.000	2.100.000	2.800.000
sales	-	200.000	500.000	1.000.000	1.500.000	2.100.000	2.800.000
Total expenses	220.000	380.000	560.000	800.000	1.000.000	1.200.000	1.400.000
rent	60.000	60.000	60.000	60.000	60.000	60.000	60.000
wages	100.000	250.000	400.000	600.000	800.000	1.000.000	1.200.000
travel	30.000	30.000	50.000	50.000	50.000	50.000	50.000
telecom	30.000	40.000	50.000	90.000	90.000	90.000	90.000
Result	-220.000	-180.000	-60.000	200.000	500.000	900.000	1.400.000
Base of calculation (32% of total income)	0	64.000	160.000	320.000	480.000	672.000	896.000
Corporation tax	0	21.760	54.400	108.800	163.200	228.480	304.640
Accumulated Corp tax	0	21.760	76.160	184.960	348.160	576.640	881.280

REAL METHOD (SERVICE CPY) - 7 YEARS BUSINESS PLAN							
	2012	2013	2014	2015	2016	2017	2018
Total income	0	200.000	500.000	1.000.000	1.500.000	2.100.000	2.800.000
sales	-	200.000	500.000	1.000.000	1.500.000	2.100.000	2.800.000
Total expenses	220.000	380.000	560.000	800.000	1.000.000	1.200.000	1.400.000
rent	60.000	60.000	60.000	60.000	60.000	60.000	60.000
wages	100.000	250.000	400.000	600.000	800.000	1.000.000	1.200.000
travel	30.000	30.000	50.000	50.000	50.000	50.000	50.000
telecom	30.000	40.000	50.000	90.000	90.000	90.000	90.000
Result	-220.000	-180.000	-60.000	200.000	500.000	900.000	1.400.000
Balance of loss Carry Forward	220.000	400.000	460.000	400.000	250.000	0	0
Losses used (max 30% of current year result)				60.000	150.000	250.000	0
Base of calculation				140.000	350.000	650.000	1.400.000
Corporation tax	0	0	0	47.600	119.000	221.000	476.000
Accumulated Corp tax	0	0	0	47.600	166.600	387.600	863.600

Below, one can see the amount of Corporate tax paid over these 6 years by always selecting the best method: 692,240 R\$.

The amount of Corporate Tax saved is 360,400 R\$; i.e. 52% of the amount paid (assuming that the amount paid has been the lowest amount of tax between 2013 and 2018)!

CORPORATION TAX SAVED BY SELECTING THE BEST OPTION								Total
	2012	2013	2014	2015	2016	2017	2018	
Corporation tax (Real)	0	0	0	47.600	119.000	221.000	476.000	863.600
Corporation tax (Presumido)	0	21.760	54.400	108.800	163.200	228.480	304.640	881.280
Paid	0	0	0	47.600	119.000	221.000	304.640	692.240
DIFFERENCE	0	21.760	54.400	61.200	44.200	7.480	171.360	360.400

Of course, the decision to select ACTUAL or ESTIMATED must be taken before actual numbers are known. Accurate financial planning is a key issue in order to save Tax.

Besides, credit of PIS and COFINS must be taken into consideration to make the best choice.

Practical information: PRESUMIDO regime and fairness in financial statements

The tax choices might impact the quality of the financial statements. When a company has chosen the REAL method, then its will be calculated on the mathematical result : Income minus expenses. In this case, of course, the management will make sure that all supporting documents are classified and archived, and that the totality of expenses and costs are recorded in the accounts and deducted from the base of calculation of Corporate Tax.

It is totally different when the chosen tax system is PRESUMIDO. In the case of PRESUMIDO, all taxes (including Corporate Tax) are calculated on the basis of turnover, which results in a lack of interest for many small and medium sized companies - and especially their accounting firms - in the recording of all expenses and costs.

The accountant firm normally makes sure that account 'Bank' is consistent with monthly bank statements. For this, when a payment is made, but no supporting document is available, the accountant will credit that account "Bank" to update the balance, and will debit the

account "Cash". This input is Asset/Asset, with no impact on the Profit and Loss statement, meaning that an expense will be missing in the Profit and Loss statement, and that the net result will be overstated. Some companies close the year with hundreds of thousands of EUR/USD in the account "Cash". Of course, the auditor will find out very easily that there is no petty cash box containing this amount in the company. This situation is almost always due to a lack of recording of expenses and/or investments. (other account of the assets used to update the bank balance can also be "Providers paid in advance").

This lack of completeness in the recording of expenses makes the profit and loss account useless. To avoid this, foreign companies coming to Brazil must make it clear to their accountant that the profit and loss account will become a crucial management tool and should therefore be exhaustive (big international accounting firms are aware of this and normally provide quality accounting).

"ARBITRARY" METHOD (ARBITRARIO)

This regime is chosen by the tax authorities as a last recourse when there is a complete lack of confidence in the financial statements due to a glaring lack of evidence necessary to verify the calculation of the actual or estimated profit.

The method of calculation is at the discretion of the tax administration, and may relate to the amount of total assets, capital subscribed, total purchases / sales, payroll ...

The application of this method by tax authorities almost invariably leads to a higher tax burden on the company.

DISPUTE

In case of dispute, for legal reclamation, there are 3 different stages, all of them are federal:

- Receita Federal : chance to get a positive result is deemed 20%; then,

- 'Conselhos de Contribuintes', this body is 50% made up of companies and 50% of government officials, therefore more likely to get positive results,

The 3rd stage is the High Court (CARF).

CHAPTER 10 - COFINS AND PIS

OVERVIEW

The PIS (Program of Social Integration) and COFINS (Contribution for the Financing of Social Security) are federal taxes based on the turnover of companies. The PIS is intended to finance the unemployment insurance system, and COFINS to fund Social Security.

Next to Corporate Tax, it is COFINS which is the main budget revenue of the Federation.

All private sector companies are subject to this tax, except:

- Micro-enterprises,
- Small businesses who opted for the SIMPLES Corporate Tax method,
- Associations, unions, and federations,
- Co-operative companies.

This tax also applies to amounts paid to non-residents as remuneration for services.

Like the VAT encountered throughout western economies, these two taxes are non-cumulative. The company must pay any difference between the amount of COFINS / PIS collected on sales, and the amount paid on purchases.

However, for companies subject to the ESTIMATED method, this tax is 'cumulative'!

RATE

The rate of COFINS is 7.6% for companies subject to the ACTUAL profit method. They have the right to deduct a credit of 7.6% of the amount of expenses incurred by the company and required for its activity (such as goods purchased for resale, raw materials used, rental expenses, energy expenditure or depreciation of capital) from the total COFINS collected on sales.

The rate of COFINS is 3% for the ESTIMATED method. This rate is much smaller than the 7.6% that applies for the ACTUAL profit method. But, on the other hand, this tax is cumulative!

Consequently, for a medium-sized company with the possibility to opt for the ESTIMATED or ACTUAL profit method, calculations and simulations must take into consideration the PIS and COFINS cumulative or non-cumulative impact!

Likewise, the rate of PIS is 1.65% for companies subject to the ACTUAL method (with the possibility of deduction); and is 0.65% for companies under the ESTIMATED method (without possibility of deduction).

Companies subject to the ACTUAL method must submit a document outlining the calculation of PIS and COFINS charges.

Finally, for co-operatives, property management companies, associations, political parties, unions, federations, foundations and other non-profit entities, a PIS of 1% applies to the gross monthly payroll.

CALCULATION AND PAYMENT

Taxpayers are required to calculate and pay PIS and COFINS each month. The deadline is the last working day of the fortnight following the month of reference.

This calculation is based on monthly billings, defined as the turnover of sales of goods and services, whatever their nature and accounting classification, excluding the following:

- The IPI tax, if clearly identified on invoices,
- Canceled sales and unconditional discounts,
- Dividends received,
- The proceeds from the sale of fixed assets,
- The turnover from exportation,

Since 1st July 2015, financial income is subject to PIS and COFINS. PIS

is 0,65% and COFINS is 4% on financial income.

Exclusion of ICMS in the Calculation of PIS/COFINS

On March 15 of 2017, the Full Bench of the Brazilian Federal Supreme Court (STF) ruled that the inclusion of the state ICMS on the social contributions on gross revenue (PIS and COFINS) taxable basis is unconstitutional (Extraordinary Appeal No. 574706).

The main argument to grant the taxpayer's appeal to not include the ICMS on the PIS/COFINS taxable basis was that, in summary, even though the ICMS amounts are charged by the seller as part of the product's price, such amounts will be transferred to the state treasury department. Therefore, they will not be added to the company's assets and will not fall within the concept of gross-revenue, which is the taxable basis for the PIS/COFINS.

Regarding the issue of establishing a date for the STF ruling to take effect, despite the request made by the Attorney of the National Treasury in the oral arguments, STF's Justice Rapporteur Carmen Lucia found that there was no claim in this regard in the court documents. Therefore, this matter was not subject to trial. However, the Attorney General of the National Treasury might file a Motion to Clarify this issue in court.

Given the uncertainty of the effective date of the ruling, it would be best to have a lawsuit filed on the matter. This would allow the taxpayer to reclaim the PIS/COFINS paid in excess (the ICMS amounts included in the sales price) in the five years before the date of the claim. This is because, even if the STF rules in favor of establishing a date for the decision to take effect – which in practical terms generally, prevents the recovery of overpaid taxes – based on its case law, the STF tends to protect the taxpayers that have already claimed their rights by filing a lawsuit. It should be noted that the five years is the statute of limitation period according to Brazilian tax legislation.

Furthermore, taxpayers may henceforth exclude the ICMS from the PIS/COFINS taxable basis. If companies adopt a conservative approach, they should obtain a ruling that allows the suspension of the payments and, thus, inform said suspension in the federal debts and credits accessory obligation form (DCTF). However, companies

may decide to suspend payments immediately based only on the STF ruling. In this case, the possibility of the Federal Revenue assessing the companies, based on the legislation that was deemed unconstitutional but is still in force, should not be ruled out.

Finally, based on the content of the STF ruling, a case law was established that may increase the taxpayers' chances of favourable outcomes regarding the following pending court discussions:

- The exclusion of the municipal tax service (ISS) from the PIS/COFINS taxable basis; and
- The exclusion of ISS and ICMS from the social security contributions (INSS) calculated on gross-revenues.

In such cases, a similar understanding to the ruling on the Extraordinary Appeal 574706 could be reached, as the ISS and ICMS amounts will be transferred to, respectively, the municipal and state treasury departments and would, therefore, not fall within the concept of "gross-revenues".

Case study: calculation and accounting of COFINS on sales

	\$ R
Sale of goods in Brazil (all taxes incl.)	1,500,000
Services (all taxes incl.)	700,000
Total (a)	2,200,000
Deductions allowed:	
Cancelled sales	50,000
Unconditional discounts	30,000
IPI	300,000
Total Deductions (b)	380,000
Financial income (c)	100,000
Total basis for calculation (a - b + c)	1,920,000
Rate of COFINS	3%
Amount of CONFINS due for January	57,600

Input in January:

INCOME STATEMENT

Turnover (COFINS in deduction of)	57,600
-----------------------------------	--------

CURRENT LIABILITIES

Current liabilities / COFINS payable	57,600
--------------------------------------	--------

Input related to payment the following month:

CURRENT LIABILITIES

Current liabilities / COFINS payable	57,600
--------------------------------------	--------

CURRENT ASSETS

Bank	57,600
------	--------

PIS and COFINS are not due on exports when they generate inflow of foreign currencies.

Payment is made to the CEF (Economic and Federal Fund).

TAX OPTIMIZATION

It is common practice in Brazil to do tax planning in order to avoid paying taxes, in particular PIS, COFINS and ISS.

For this, the law allows the reimbursement of expenses between companies; this expense reimbursement is not an invoice and therefore is not subject to PIS, COFINS and ISS.

Thus, two companies within the same group can decide to avoid issuing and exchanging invoices; and instead, use the "debit note", which is tax free.

Similarly, two independent companies can use this mechanism. Imagine company A, selling a service to company B for a total of 100 R\$, out of which 90 R\$ was outsourced.

A has already paid PIS, COFINS and ISS on those 90 R\$ outsourced. However, if A bills 100 to B, B must pay PIS, COFINS and ISS on the total 100 R\$. The 90 R\$ outsourced have been double taxed for PIS, COFINS and ISS. This is why this tax is described as "cumulative".

On the contrary, if A sends a “debit note” to B to be reimbursed 90 R\$, then A may limit its billing only to the balance of 10 R\$. B will pay the PIS, COFINS and ISS on the 10 R\$, decreasing by 90% the tax burden.

CHAPTER 11 – WITHHOLDING TAXES ON INVOICES

OVERVIEW

There are plenty of cases of withholding taxes! In order to fight against tax evasion and to fasten the collection of taxes – in some cases - IRPJ, CSLL, PIS and COFINS must be retained by the client (and subsequently paid to the Tax Authorities) instead of being paid to the provider.

This applies only for *Services* and only for companies using the ACTUAL or ESTIMATED methods. Companies using the SIMPLES method pay the whole amount to the provider; and receive the whole amount from clients. To be fully compliant, these companies must send to the clients a document signed by the administrator stating that the company is using the SIMPLES, and as such is not subject to withholding taxes.

Amount and taxes withheld are the following:

- 0,65% for PIS,
- 3% for COFINS
- 1% for l'IRPJ,
- 1,5% for CSLL,

CORPORATE TAX WITHHELD

IRPJ must be withheld on all invoices. There are only two exceptions:

- The amount of IRPJ 'withheld' is below 10R\$. In such cases the seller will receive the payment including the IRPJ, and will need to pay the IRPJ to the Tax Authorities himself at the end of the month;
- The seller has selected the SIMPLES method, and therefore pays all taxes in a single document at the end of the month;

INVOICE WITH CORPORATE TAX WITHHELD

Below is an example of an invoice related to services, of 1,899.25 R\$, with ISS (5% of the amount of the invoice, i.e. 94.96 R\$), and IRPJ

withheld (1.5% of the amount, i.e. 28.49 R\$).

In this case, the client will pay to the provider an amount (net of IRPJ taxes) of 1,870.76 R\$ (see the last line of the invoice).

The client will retain the 28.49 R\$ of IRPJ, and will need to use a DARF in order to pay this amount to the Public Treasury (Receita Federal).

The seller will receive 1,870.76 R\$ and will still have to pay the 5% ISS. He will use a DARM (Municipal document for paying taxes).

 PREFEITURA DA CIDADE DO RIO DE JANEIRO SECRETARIA MUNICIPAL DE FAZENDA NOTA FISCAL DE SERVIÇOS ELETRÔNICA - NFS-e - NOTA CARIOCA -		Número da Nota 00000111 Data e Hora de Emissão 31/05/2012 23:18:25 Código de Verificação E7BN-IESE								
201208011113825027000111113825027000111										
PRESTADOR DE SERVIÇOS										
CPF/CNPJ: 13.626.027/0001-11 Nome/Razão: Data of the seller Nome Fantasia: Endereço: AV Município: RI	Inscrição Municipal: 0.516.230-5 Inscrição Estadual: --- ITAB 2191240407 UF: PR									
TOMADOR DE SERVIÇOS										
CPF/CNPJ: 1 Nome/Razão: Data of the buyer Nome Fantasia: Endereço: LR Município: RI	Inscrição Municipal: --- Inscrição Estadual: 2121466063									
DISCRIMINAÇÃO DOS SERVIÇOS										
Serviços de Consultoria										
<table border="0" style="width: 100%;"> <tr> <td>Retenção de COFINS R\$ 0,00</td> <td>Retenção de CSLL R\$ 0,00</td> <td>Retenção de INSS R\$ 0,00</td> <td>Retenção de IRPJ R\$ 29,49</td> <td>Retenção de PIS R\$ 0,00</td> <td>Outras Retenções R\$ 0,00</td> </tr> </table>			Retenção de COFINS R\$ 0,00	Retenção de CSLL R\$ 0,00	Retenção de INSS R\$ 0,00	Retenção de IRPJ R\$ 29,49	Retenção de PIS R\$ 0,00	Outras Retenções R\$ 0,00		
Retenção de COFINS R\$ 0,00	Retenção de CSLL R\$ 0,00	Retenção de INSS R\$ 0,00	Retenção de IRPJ R\$ 29,49	Retenção de PIS R\$ 0,00	Outras Retenções R\$ 0,00					
VALOR DA NOTA = R\$ 1.899,25										
Serviço Prestado: 17.01.01 - assessoria ou consultoria de qualquer natureza, não especificada										
Deduções (R\$) 0,00	Desconto Incond. (R\$) 0,00	<table border="1" style="width: 100%;"> <tr> <td>Base de Cálculo (R\$)</td> <td>Alíquota (%)</td> <td>Valor do ISS (R\$)</td> <td>Crédito p/ IPTU (R\$)</td> </tr> <tr> <td>1.899,25</td> <td>5,00%</td> <td>94,96</td> <td>0,00</td> </tr> </table>	Base de Cálculo (R\$)	Alíquota (%)	Valor do ISS (R\$)	Crédito p/ IPTU (R\$)	1.899,25	5,00%	94,96	0,00
Base de Cálculo (R\$)	Alíquota (%)	Valor do ISS (R\$)	Crédito p/ IPTU (R\$)							
1.899,25	5,00%	94,96	0,00							
OUTRAS INFORMAÇÕES										
- Esta NFS-e foi emitida com respaldo na Lei nº 5.098 de 15/10/2009 e no Decreto nº 32.250 de 11/05/2010 - PROCON-RJ: Rua da Ajuda, 5 subsolo; www.procon.rj.gov.br - Data de vencimento do ISS desta NFS-e: 11/06/2012. - Esta NFS-e não gera crédito para abetimento no IPTU. - Valor Líquido a Pagar: R\$ 1.870,76										

Note that if the client fails to retain IRPJ and pays 1,899.25 R\$ instead of 1,870.76 R\$, the service provider will need to issue and pay the 28.49 R\$ of IRPJ.

DARF FOR PAYMENT OF THE CORPORATE TAX WITHHELD

The document below is a DARF ('F' standing for Federal), whose code 1708 indicates that it is used in order to pay the Corporate tax (IRPJ) to the Public Treasury. DARFs are used to pay Federal taxes. In such a case, there is only one Federal tax to pay: IRPJ.

(IRRF can be found on the DARF below. It is another acronym for IRPJ; RF stands for *Retido na Fonte*, i.e. withheld at source).

One can see the amount of 28.49 R\$ withheld by the client on the invoice above.

Aprovado pela INIRF nº 736/2007		1ª Via	
 MINISTÉRIO DA FAZENDA SECRETARIA DA RECEITA FEDERAL DO BRASIL Documento de Arrecadação de Receitas Federais DARF	02 PERÍODO DE APURAÇÃO	31/05/2012	
	03 NÚMERO DO CPF OU CNPJ	11.978.321/0001-81	
	04 CÓDIGO DA RECEITA	1708	
	05 NÚMERO DE REFERÊNCIA		
	06 DATA DE VENCIMENTO	20/06/2012	
[] Name of Cpy	07 VALOR DO PRINCIPAL	28,49	
IRRF REFERENTE A NF 111 DA EUROPARTNER DARF válido para pagamento até 20/06/2012 Domicílio tributário do contribuinte: RIO DE JANEIRO NÃO RECEBER COM RASURAS Auto-Atendimento Versão 4.43.49.6001 - opção 1 - DLL versão 1.3	08 VALOR DA MULTA	0,00	
	09 VALOR DOS JUROS E / OU ENCARGOS DL - 1.025/69	0,00	
	10 VALOR TOTAL	28,49	
	85620000000-3 28490064217-4 21119783210-1 00117082152-2 11 AUTENTICAÇÃO BANCÁRIA (Somente nas 1ª e 2ª vias)		

If the client has received and paid 10 different invoices during the month, he will need to issue 10 DARFs to pay the IRPF withheld on each one of these!

How to issue a DARF / DARM?

To issue a DARF, you need to download a special application (named 'Sicalc') from the Public Treasury website: <http://www.receita.fazenda.gov.br>. This application is updated every month.

You will need to input the correct code (depending on what tax you are paying), the date of reference (based on this date, the deadline will automatically appear), the amount, the name and CNPJ of the company.

To issue a DARM, you need to access the site of your Municipality (example for Rio de Janeiro: <https://notacarioca.rio.gov.br/capa.aspx>). Inform whether you have a physical identification device ('Certificado Digital') or not. If you do, connect it to your computer, and input your password. Select 'Guias de Recolhimento'. Input the required information, and issue the document 'Emitir Guia'.

DARM FOR PAYMENT OF THE ISS TAX

The service provider must pay the ISS tax on all services sold. Since this is paid to Municipalities, it's a DARM ('M' standing for Municipalities) that must be used.

Below is an example of a DARM used to pay to the Municipality of Rio de Janeiro an amount of 644.96 R\$ of ISS.

 PREFEITURA DA CIDADE DO RIO DE JANEIRO SECRETARIA MUNICIPAL DE FAZENDA DOCUMENTO DE ARRECADAÇÃO DE RECEITAS MUNICIPAIS		DARM RIO	
Name of the Company		01. RECEITA 129-5	
11. INFORMAÇÕES COMPLEMENTARES CNPJ: 13.625.027/0001-11 Endereço: AVN GRACA ARANHA 19, GRP 802 CENTRO - RIO DE JANEIRO/RJ - CEP: 20030-002 Movimento Econômico Valor Serviços = R\$ 12.899,25 Base de Cálculo = R\$ 12.899,25 Valor ISS = R\$ 644,96 Valor Principal a Pagar = R\$ 644,96 Valor Principal a Pagar Atualizado = R\$ 644,96		02. INSCRIÇÃO DO CONTRIBUINTE 0.515.230-5 03. DATA DE VENCIMENTO 11/06/2012 04. COMPETÊNCIA 05 / 2012 05. GUIA (PARA USO DA REPARTIÇÃO) 0000937750	
BANCOS E CASAS LOTÉRICAS NÃO ESTÃO AUTORIZADOS A RECEBER ESTE DOCUMENTO APÓS 11/06/2012		06. VALOR DO TRIBUTO 644,96 07. VALOR DA MORA 0,00 08. VALOR DA MULTA ***** 09. VALOR TOTAL 644,96	
8461000006 5 44062650201 5 20611120000 6 00000277504 7		12. AUTENTICAÇÃO MECÂNICA (PARA USO DO BANCO)	

Some DARF's Codes:

In the field "Codigo da receita", a specific code must be selected. This code will inform the tax authorities what tax the company is paying, and what tax system has been chosen. For DARF used to pay Corporate Tax, codes are the following:

IRPJ Corporate tax:

Method ACTUAL:

1) Legal entity:

Monthly estimate: 2362

Quarterly calculation: 0220

Yearly adjustment: 2430

Method ESTIMATED: 2089

Method ARBITRADO: 5625

IRRF Corporate Tax withheld:

Legal entity offering services: code 1708

Rent and Royalties paid to individuals: code 3208

PIS, COFINS, AND CSLL TAX WITHHELD

The article 30 Law nº 10.833/2003 (and SRF nº 459/2004) states that PIS, COFINS and CSLL must be withheld on a limited list of services (see Appendix 5 for the list of services subject to withholding taxes). This applies only for transactions between legal entities. Individuals are not within the scope of this law.

PIS, COFINS and CSLL taxes must be withheld. The rates applied are respectively 0.65% for PIS, 3% for COFINS and 1% for CSLL.

Example:

Below is an invoice related to services. The service provider (regime ESTIMATED) has issued an invoice for a total amount of 5,750 R\$.

The invoice shows the following amounts of tax withheld:

COFINS (3%):	175.50 R\$
IRPJ (1.5%):	86.25 R\$
CSLL (1%):	57.50 R\$
PIS (0.65%):	<u>37.38 R\$</u>
Total :	353.63 R\$

(Note that if the service provider had selected the ACTUAL method instead of the ESTIMATED, rates would be different.)

The amount, net of taxes withheld, and that will be received by the service provider will be 5,396.37 R\$ (it does appear at the bottom of the document).

The client will need to pay to the Tax Authorities the amounts withheld. For this, he will use 4 DARFs (one for each tax) to pay these 353.63 R\$.

The service provider will pay 287.50 R\$ of ISS. He will use a DARM.

 PREFEITURA DA CIDADE DO RIO DE JANEIRO SECRETARIA MUNICIPAL DE FAZENDA NOTA FISCAL DE SERVIÇOS ELETRÔNICA - NFS-e - NOTA CARIOCA -		Número da Nota 00000148 Data e Hora de Emissão 25/06/2012 14:21:20 Código de Verificação JYGR-YRII			
PRESTADOR DE SERVIÇOS CPF/CNPJ: 13.625.027/0001-11 Inscrição Estadual: 0.535.230-5 Nome/Razão Social: [Redacted] 407 Nome Fantasia: [Redacted] Endereço: AV. [Redacted] Município: RJ					
Data of the buyer CPF/CNPJ: 1 [Redacted] Nome/Razão Social: [Redacted] Nome Fantasia: [Redacted] Endereço: AV. [Redacted] 0171 Município: RIO DE JANEIRO					
DISCRIMINAÇÃO DOS SERVIÇOS SERVIÇOS DE CONSULTORIA. FATURA 177					
Retenção de COFINS R\$ 172,50	Retenção de CSLL R\$ 57,50	Retenção de INSS R\$ 0,00	Retenção de IRPJ R\$ 88,25	Retenção de PIS R\$ 27,30	Outras Retenções R\$ 0,00
VALOR DA NOTA = R\$ 5.750,00					
Serviço Prestado: 17.01.01 - assessoria ou consultoria de qualquer natureza, não especificada					
Deduções (R\$) 0,00	Desconto Incend. (R\$) 0,00	Base de Cálculo (R\$) 5.750,00	Alíquota (%) 5,00%	Valor do ISS (R\$) 287,50	Crédito do IPTU (R\$) 0,00
OUTRAS INFORMAÇÕES - Esta NFS-e foi emitida com respaldo na Lei nº 5.098 de 15/10/2009 e no Decreto nº 32.250 de 11/05/2010 - PROCON-RJ: Rua da Ajuda, 5 subsolo; www.procon.rj.gov.br - Data de vencimento do ISS desta NFS-e: 10/07/2012. - Esta NFS-e não gera crédito para abatimento no IPTU. - Valor Líquido a Pagar: R\$ 5.398,37					

Accounting treatment of withholding tax:

The company that buys services subject to withholding tax shall recognize the cost of service for the full value and account for the taxes to be paid.

Example with the DELTA company, that buys consulting services worth 20,000 R\$ from the TAX company. The invoice was registered on 31/08/2008, with settlement scheduled for 25/09/2018.

DELTA Cpy :

On 31st Aug 2018, recording the purchase

Services expense	20,000	
Service TAX payable		20,000
Service TAX payable	1,230	
PIS (0.65%) payable		130
COFINS (3%) payable		600
CSLL (1%) payable		200
IRRF (1.5%) payable		300

On 20th Sept 2018, paying the IRRF

PIS (0.65%) payable	130	
COFINS (3%) payable	600	
CSLL (1%) payable	200	
IRRF (1.5%) payable	300	
Bank		1,230

On 25th Sept 2018, paying the service provider

Service TAX payable	18,770	
Bank		18,770

The accounting entries above clearly show that the withholding taxes are paid by the client himself!

TAX Cpy :

On 31st Aug 2018

Clients	20,000	
Sales		
20,000		
PIS (assets)	130	
COFINS (assets)	600	
CSLL (assets)	200	
IRRF (assets)	300	
Clients		
1,230		

On 31st Aug 2018

PIS (deduction of Sales)	130	
COFINS (deduction of Sales)	600	
PIS (assets)		130
COFINS (assets)		600

On 25st Sept 2018

Bank	18,770	
Clients		
18,770		

After this input, it's possible to see that the TAX Cpy has a credit (asset) of Corporate Tax (CSLL and IRRF). At the end of year, even if the Company applies the REAL system and makes no profit, some Corporate Tax will have been paid (actually withheld by clients). This credit will increase throughout the years until the Company makes a taxable profit and use this credit.

DIRF (WITHHOLDING TAXES ANNUAL STATEMENT)

The DIRF (Declaração do Imposto sobre a Renda Retido na Fonte – SRF nº381/2003) is a statement that the payer must issue every year to inform the federal authorities. It contains information on:

- payment to individuals resident in Brazil,

- the amount of taxes withheld and paid on invoices received,
- payment to individuals resident abroad,
- payment to corporate 'Health Plan',
- the codes used,
- the nature of the transactions,
- the amount of the transactions before taxes,

The statement is done through the website of the Receita Federal:
<http://www.receita.fazenda.gov.br>.

The annual DIRF must be issued before the end of February.

Penalty in case of late delivery, and mistake:

- 2% of the taxes paid for every month of delay, with a maximum of 20%; i.e. if the delay is above 10 months, the penalty will be 20% of the amount of taxes paid in the previous year and disclosed in the DIRF;
- 20R\$ for every group of 10 items disclosed incorrectly.

Since companies opting for the SIMPLES regime do not have to withhold taxes, they don't have to issue such statement.

CHAPTER 12 – IOF

GENERAL INFORMATION ON THE IOF

IOF stands for Imposto sobre Operações Financeiras, and is usually translated as the Tax on Operations of Credit, Exchange and Insurance. IOF is a tax on various types of financial transactions in Brazil — including foreign exchange, investments, and credit. It's levied at a range of rates depending on exactly what kind of transaction is being carried out, and can change at short notice. IOF is intended to be a regulatory instrument — meaning that it helps the government measure and manage the volumes of credit and foreign exchange. It's also another revenue stream for the government. It's worth knowing that IOF can be set by Presidential Decree and doesn't have to be approved by the Brazilian National Congress. That means that it can change quite quickly, and in response to economic forces.

For example, in March 2018, the IOF amount changed on several types of international money transfers. Previously, sending money from a Brazilian bank account to another bank account abroad in the same person's name held an IOF tax of 0.38%. After March, the Brazilian government increased that tax to 1.1%. Likewise, during the Coronavirus crisis, the rate of IOF was 0% from April 3rd till July 3rd.

SCOPE OF IOF

IOF is a tax levied on certain financial operations, such as loans, foreign exchange operations, insurance, and securities, as well as operations with gold (as a financial asset) and foreign exchange instruments. IOF is also applied on foreign exchange transactions, such as getting foreign cash for your planned holiday, or making a remittance payment from a bank account held in a different currency, to Brazil. Or even sending money from your bank account in Brazil to a bank account you hold in a different country and currency. It also applies to some things like credit cards, but then not on other forms of credit like store cards, or purchases paid by interest-free instalments.

It can feel a bit overwhelming if you're trying to pin down exactly where you do and do not pay it.

IOF also applies to loan between legal entities and even to loans between legal entity and individual. In such case, the lender must pay the IOF on behalf of the recipient. IOF does not apply on monthly instalments when paying back a loan, nor on loans between individuals.

The IOF rate may be reduced to 0% in some cases, such as:

- (i) exchange operations relating to the inflow of revenues in Brazil deriving from the export of goods and services (until July 2019 exporters had to receive the incoming payment within 24h of the export to avoid IOF, this is no longer a condition);
- (ii) exchange operations relating to the inflow and outflow of resources in and from Brazil, stemming from foreign loans, with average term exceeding 180 days;
- (iii) remittances of interest on net equity and dividends relating to foreign investment;
- (iv) The simultaneous exchange transactions for the purposes of converting a foreign direct investment in a Brazilian company into investment in shares are also subject to a 0 percent rate.

IOF does not apply to the payment or reimbursement of Capital Social.

On 24 July 2019, the Brazilian tax authorities published a private letter ruling (PLR 231/2019) aligning their position with a recent opinion of the Office of Attorney General of the National Treasury (Opinion No. 83/2019) regarding the financial transactions tax (IOF) as applied to export transactions. The new ruling is a change in position from a previous private letter ruling (PLR 246/2018). The tax authorities had previously held in PLR 246/2018 that if funds enter a Brazilian exporter's bank account in Brazil after the

exporter ships goods or provides services, the 0.38% IOF applies to the foreign exchange transaction.

The tax authorities have now reversed their position and recognize that export transactions should benefit from an IOF exemption on exported goods and services even if the funds were kept abroad for a period of time, provided the foreign exchange transaction satisfies the Brazilian Central Bank rules.

On 13 August 2019, the Brazilian Supreme Chamber of Tax Appeals (CSRF) issued a decision concluding that the financial tax on credit transactions (IOF credit) should be applied on amounts made available between Brazilian related parties on a continuous basis, even if there are no formal loan agreements between the parties. This decision reverses the CSRF's previous position where the court did not apply the IOF credit to cash pooling arrangements between related parties due to the nonexistence of formal loan agreements.

THE DIFFERENT RATES OF IOF

The applicable rate will vary depending on the operation. At the time of writing, the tax brackets you'll likely need to know about if you're thinking of sending money to, or receiving money from an account in Brazil are these:

- Sending money from Brazil to a friend or relative abroad: 0.38%
- Sending money from Brazil to an account abroad held in your own name: 1.1%
- Sending money from abroad to Brazil to yourself, a friend, or a relative: 0.38%
- Sending money from abroad to Brazil for a period of 180 days or less: 6,38%

There are also IOF taxes to pay on buying foreign currency, for example for your next planned trip abroad, or on prepaid and credit card use. If you're using a Brazilian credit card but paying for something in a currency other than Brazilian real, the IOF can run as

high as 6.38% and is charged directly to you, the consumer. Travelling with USD or Euros in the wallet is cheaper since you pay only 1,1% when changing Reais against foreign currencies.

Under current tax legislation, the IOF credit applies on domestic loans with pre-determined principal amounts at a maximum rate of 1.88% per year (0.38% upon grant, plus 0.0041% per day on the principal, limited to 1.5%, bringing the total to 1.88%). If the amount of the principal is not pre-determined at the time the loan is granted, the IOF credit of 0.38% is due upon grant, and the 0.0041% is collected at the end of each month based on the outstanding balance of that month (including interest).

If the loan is between a legal entity and an individual, the daily rate will be 0.0082%. This was decided in 2015 officially to limit the (see Decret 8.392/15 for more) level of indebtedness of individuals. With this rate, the maximum is 3.38% (as compared to 1.88% for legal entities). Many Brazilian who pay with credit card their purchases are paying this daily 0.0082%, most of time without being aware about it.

CALCULATION OF IOF

For single transaction, i.e. a unique payment the calculation is straightforward and needs just the application of the rate to the amount of the payment.

On the other end, for loans, there is a trickier calculation since there is a rate per day. See below an example of calculation:

Example: Loan of 1 year

Amount of principal: R\$ 100.000,00

Time: 365 days

Rate: 0,0041%

Calculation of IOF:

R\$ 100.000,00 (x) 365 (x) 0,0041% = R\$ 1496,50

Extra = 100.000,00 (x) 0,38% = R\$ 380,00

Total of IOF = 1496,50 + 380,00 = R\$ 1876,50

DEADLINE FOR PAYING IOF

IOF is deducted at source. That means it'll be taken by the bank, credit card company, or whatever institution processes the relevant transaction, as and when it applies. In a few circumstances, you'll get a bill for and need to pay later. It's not super common, but in the case of credit cards, for example, you may be charged for IOF taxes on your monthly statement.

For loans between legal entities or between legal entity and individual, the lender must pay the IOF on behalf of the recipient. For this it will issue a document of payment – named DARF – to pay this tax to the Receita Federal.

When it is not deducted at source, the deadline is quite tricky. First you need to split the month of the operation into 3 periods:

Dates Ten days Period

From 1st till 10th of each month 1st ten days period

From 11th till 20th of each month 1st ten days period

From 21st till end of the month 1st ten days period

The deadline is the 3rd business day of the ten days period that follow the one of the operation.

For example, if an operation has been done on 5th of January, the IOF must be paid before end of 13th – assuming 11, 12 and 13th are business days.

HOW DO I SEND MONEY TO BRAZIL?

The Brazilian currency Real is considered to be a restricted currency, which implies limitation to the tradability of this currency. Payments in Brazilian Reais cannot be sent outside of Brazil and international payment processors can therefore not legally collect payment from Brazil from abroad using the Brazilian currency. As a merchant, you can display an approximate price in the Brazilian currency using real

time currency exchange information but the merchant cannot process the payment transaction using Reais.

If you want to send money to Brazil you have several options. If your intended recipient has a bank account, then you could make an international bank transfer with your regular bank, which can usually be done in person in a bank branch, though sometimes you may have an option to do it online or through the phone. You could also choose a specialist in international money transfers like a broker – ‘corretor de cambio’ in Portuguese.

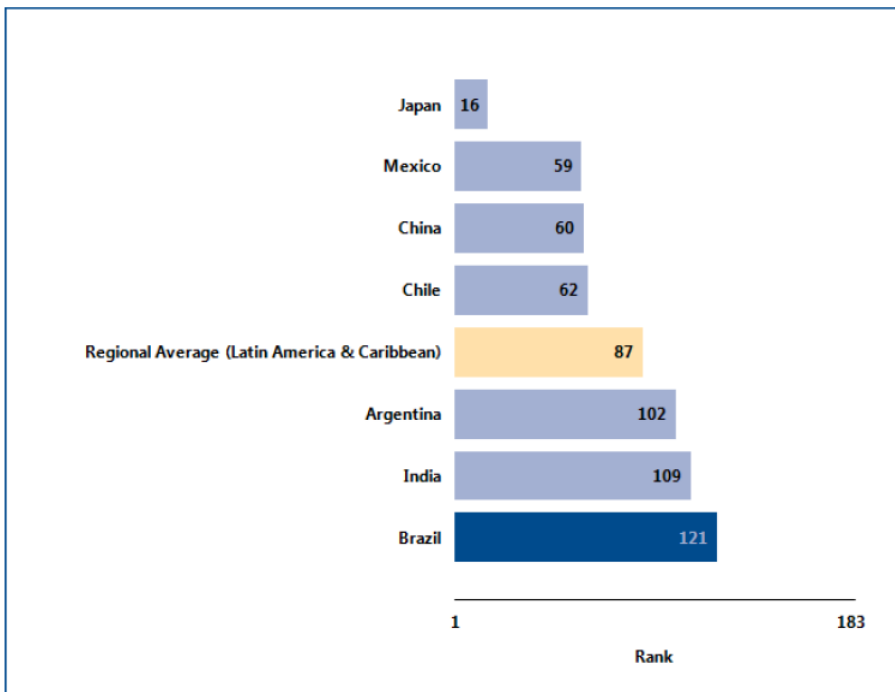
When you’re deciding which service is best for you, you’ll need to check out both the stated fees as well as the exchange rates used. See what your chosen provider is offering, and compare it to the mid-market rate using an online currency converter to check if it’s fair. The mid-market rate matters because it’s the only real exchange rate — the one banks use when they trade on global markets. However, many banks or money exchange services markup this rate to make sure they make a profit. This means you lose out.

CHAPTER 13 - EXPORTS TO BRAZIL

The import taxes can double the price of goods exported to Brazil. Importing in Brazil is expensive. So much so, that the decision to implant a subsidiary in the Brazilian territory is highly recommended and is essential for those exporters who have ambitious goals to conquer the market.

Moreover, regulation and taxation on Brazilian trade is heavily influenced by its membership in the Mercosur. The administrative process is described in decree 6.759 5/02/2099 known as 'Regulamento Aduaneiro'.

See below a chart showing that on the “Ease of trading through the borders”, Brazil ranks 121th:



Source: *Doing Business* database.

COMMON NOMENCLATURE OF MERCOSUR

Since the signing of the Mercosur treaty (Brazil, Argentina, Uruguay, and Paraguay), goods imported and exported are classified according to the Common Nomenclature of Mercosur ("NCM").

Classification codes are made up of 8 characters and are based on the Harmonized System ("HS"). The HS nomenclature is an international commodity classification, based on a framework of codes and descriptions for various products marketed internationally. This system was created to enable information gathering and production of coherent international statistics on international trade.

The NCM contains 21 sections divided into 99 chapters (e.g. Chapter 88 in Appendix 6). It is available on: <http://www.mdic.gov.br>.

The correct classification according to the NCM is particularly important since the products are subject to different tax levels. A misclassification may result in the payment of the tax differential, and a fine of not less than 1% of the declared value.

More information on the NCM can be found in Appendix 7.

RADAR

All companies willing to do import/export must be previously authorized by the Public Treasury (Receita Federal) through the RADAR system (Registro e Rastreamento da Atuação dos Intervenientes Aduaneiros) and register their legal representatives.

The request for RADAR is made by a legal representative according to IN SRF nº650, 12/5/2006. RADAR can be:

- 'Ordinary', for corporations generally active in international trading,
- 'Simplified', for corporations subject to a DCTF monthly disclosure,
- Especial, for public entities,
- 'Restricted', for entities that already were active in trading, but just for consulting or correcting a previous statement,

Necessary documentation includes the Articles of Association, and its amendments, identification documents of legal representative, invoices of utilities.

In some cases, it will be also necessary to obtain a Licence of Importation (LI). Importations are classified as such:

- Importations exempt of licence,
- Importations with automatic licence,
- Importations with licence to be obtained.

The licence must be required through the Siscomex.

However, there are opportunities for exemption from these common tariffs.

COMMON EXTERNAL TARIFF OF MERCOSUR

The Mercosur countries have agreed upon a list of Common External Tariffs (Tarifa Externa Comum - "TEC"). This list shows the rates applicable to each product classified according to the NCM.

The rate is usually between 0% and 20%. However, mainly in order to protect local automotive and textile production, a 35% tax was introduced.

Once you have identified your product description and its code (8 digits) in the NCM list, you can read in the TEC the level of import tax levied on it.

The function of this tax is known as 'economic'. For this reason, the Constitution provides that this tax could be retroactive. In other words: rate changes may apply to the tax year in which the law was passed.

It is the same for IE, IPI, PIS and COFINS Contributions, these taxes being all controlled by the Federation!

Summary of procedures and documents for trading across borders in Brazil

Indicator	Brazil	Latin America & Caribbean	OECD high income
Documents to export (number)	7	6	4
Time to export (days)	13	18	10
Cost to export (US\$ per container)	2215	1,257	1,032
Documents to import (number)	8	7	5
Time to import (days)	17	20	11
Cost to import (US\$ per container)	2275	1,546	1,085

Procedures to export	Time (days)	Cost (US\$)
Documents preparation	6	325
Customs clearance and technical control	3	400
Ports and terminal handling	3	500
Inland transportation and handling	1	990
Totals	13	2215

Procedures to import	Time (days)	Cost (US\$)
Documents preparation	8	275
Customs clearance and technical control	4	450
Ports and terminal handling	3	500
Inland transportation and handling	2	1050
Totals	17	2275

To this charge may be added the cost of docking and handling of goods.

Brazilian companies may ask the Federal Revenue Service (RFB) to assess the tariff classification of products they intend to import. The tariff classification informed by the RFB is binding, and the importer is exempted from penalties arising from incorrect tariff classification for the purposes of customs clearance of the assessed imports.

Depending on their tariff code, certain products may be subject to an import licence to be issued by the competent authorities - usually prior to shipment of the goods abroad. The administrative handling table indicating the goods that require such licensing as well as the corresponding governmental body may be accessed at

www.mdic.gov.br/comercio-exterior/importacao/tratamento-administrativo-de-importacao.

EXCEPTIONS EX-TARIFARIO

However, there are opportunities for exemption from these common tariffs. Mercosur Countries will allow these exemptions (downward) under certain conditions. Each waiver must be justified: most often, products subjects to a special decrease are little or not produced locally. These products are required to improve the Brazilian industrial productivity. They are capital-intensive goods, IT products, or technology-intensive products.

In the TEC, these products are identified by the presence of "BK" (for 'capital-intensive goods') or "BIT" (IT products). Appendix 8 (source: <http://www.camex.gov.br/tarifa-externa-comum-tec/tec-listas-em-vigor>) presents an extract selected from the TEC (updated on 28/2/2021), which reveals certain products benefiting from a possible privileged treatment.

Under the condition of demonstrating the absence of a domestic equivalent, the exporter may request an exemption and thus be subject to a tax on imports limited to 2%, and this for a period of two years. This scheme is called Ex-tarifário.

Resolution No. 35 of 22/11/2006 Camex provides the procedures to be followed and other disclosures. Applications should be addressed to the Secretary of Production Development, at the Ministry of Development, Industry and Foreign Trade (MDIC), in duplicate, only by a Brazilian company. It must contain details including the applicant's social and technical descriptions, classification of the product, estimated amounts - by value and volume - of importation into Brazil, and the sum of related investments.

The MDIC has to verify the existence or not of equivalent domestic production (expect at delay of one month for a reply).

All Ex-tarifário approved and in place can be consulted on this

website: <http://www.mdic.gov.br/index.php/competitividade-industrial/acoes-e-programas-13/o-que-e-o-ex-tarifario-5>

The preferential tariffs deriving from FTAs and exceptions to the Mercosur Common Tariff can be accessed on the Ministry of Economy's website at <http://capta.mdic.gov.br/preferencia-tarifaria/index>.

SUSPENSION REGIME

The Brazilian customs regulations provide for certain customs regimes designed to suspend the duties due upon importation. The RFB is the body responsible for granting and scrutinizing the use of such regimes, which are listed below:

- temporary admission, which allows for total suspension for goods that are only temporarily staying in Brazil (eg, for testing and experiments, or for events) or partial suspension for goods that are to be used economically for a certain period;
- free trade zones, such as the Manaus Free Trade Zone, which are areas with full exemption from the taxes due upon importation, including import tax and the tax on manufactured products, for most products imported into the free trade zone;
- drawback, which suspends, exempts or reimburses the applicable taxes for imported inputs and raw materials that are used in the manufacturing of products in Brazil that will be exported;
- bonded warehouses, in which goods may be imported and stored with full suspension of taxes for a certain period before being nationalised or returned abroad;
- temporary exportation, which allows for exportation with full suspension of taxes for a certain period, including import taxes during the return of the products to Brazil. When the product exported temporarily is subject to manufacturing operations, only the aggregated value will be subject to taxation during the product's return to Brazil; and
- special customs regimes for suspension of taxes on the importation of machines and inputs designed to improve and boost the expansion of specific sectors in Brazil, such as the

mining, natural gas and crude oil exploration sectors (eg, REPETRO, RECOM and REPEX).

Normative Instruction No. 1,901/19: Repetro-Industrialização regulation

On July 19, 2019, Normative Instruction No. 1901 was published, establishing a special regime for the manufacturing of goods destined to be used for the exploration and production of oil, natural gas and other fluid hydrocarbons (the "Repetro-Industrialização" regulation). According to the regulation, federal taxes will be suspended on the importation or local purchase of raw materials, intermediate products and packaging materials to be used to manufacture goods later destined to entities legally qualified in Repetro and Repetro-SPED.

The following entities can be legally qualified to the regime: (i) the manufacturers of final goods to be directly supplied to other companies qualified in the Repetro and Repetro-SPED regimes and (ii) intermediate manufacturers whose goods will be used in the manufacture of the final product.

OTHER TAXES INCURRED BY IMPORTS

On top of taxes on importation ("II"), are added IPI, ICMS, COFINS and PIS. While II applies to the customs value ("CIF"), it is not the same for other taxes.

The II is calculated on the CIF:	rate of II (from TEC) * CIF
The IPI is calculated on:	CIF + II
ICMS is calculated on:	CIF + II + IPI + PIS Import + COFINS Import + ICMS + other
COFINS is calculated on:	CIF
PIS is based on:	CIF

ICMS is calculated through an equation with one unknown. Moreover, the ICMS is also applicable on other expenditure items such as freight, insurance, handling costs, etc.... As these costs are not

known precisely until the goods are shipped, the exact amount of ICMS is not known until the trade is concluded.

Apart from the II, all other taxes that apply, do participate in the establishment of an equal treatment between imported goods and goods manufactured in Brazil, which are also subjected to these taxes. But rates of PIS Import (2,1%) and COFINS Import (9,65%) are above those applicable to local production (1,65% and 7,6% respectively).

EXAMPLE OF CALCULATION OF TAXES ON IMPORTS

Item	Calculation	Tax Rate	Value
FOB Price			100.000
Insurance & Freight		5,00%	5.000
CIF Price			105.000
II (Import Tax)	$CIF * II$	9,00%	9.450
Landed Cost	$CIF + II$		114.450
IPI (Tax on Industrialised Products)	$(CIF+II) * IPI$	10,00%	11.445
ICMS (Tax on merchandise)	$(CIF+II+IPI+PIS\ Import+COFINS\ Import) / (1-ICMS) * ICMS$	18,00%	30.344
PIS Import (Tax on turnover)	$CIF * PIS\ Import$	2,10%	2.205
COFINS Import (Tax on turnover)	$CIF * COFINS\ Import$	9,65%	10.133
Total		53,75%	168.576

PIS COFINS ON IMPORTS

As explained earlier in this book, the standard rate os PIS and COFISN are 0,65% and 3% for 'Presumido', and 1,65% and 7,6% for 'Real'. But there are many other rates for imports.

In June 2015, a new law (13.137) has created specific rates for imports: there is a general rate of 2,10% for PIS and 9,65% for COFINS, applicable for products and services, and giving right to tax credit for the whole amount paid.

CUSTOM VALUE OF GLASS LUST: R\$ 1.650,00				
Taxes/Expenses	Before Law 13.137		After Law 13.137	
I.I.	18%	R\$ 297,00	18%	R\$ 297,00
I.P.I.	15%	R\$ 292,05	15%	R\$ 292,05
PIS-Imports	1,65%	R\$ 27,22	2,1%	R\$ 34,65
COFINS-Imports	7,6%	R\$ 125,40	9,65%	R\$ 159,22
TAXA SISCOMEX	-	R\$ 214,50	-	R\$ 214,50
BASIS OF CALCULATION ICMS	-	R\$ 3.178,25	-	R\$ 3.228,56
ICMS (SP)	18%	R\$ 572,09	18%	R\$ 581,14
TOTAL CUSTOM VALUE WITH TAXES AND EXPENSES	R\$ 3.178,26		R\$ 3.228,56	

The impact of the increase in the rates of PIS and COFINS-Imports is not only in the increase of these taxes themselves, but is also felt in the value of ICMS-Imports, which suffers an increase in its calculation base, as you can see in the statement above.

Looking at it coldly, the impact is very small when dealing with low values like the one shown above. It does not reach a 2% (R \$ 50.30) increase in the total amount.

There is also a special rate of COFINS of 10,65%. It applies to products listed in Appendix I of the law 12.546/11. The 1% difference between 9,65% and this 10,65% cannot be credited. It will therefore be included into the value of stock.

There are also other exceptions. In the table below (source: law 10.865), we give examples for *some* Pharmaceuticals and Perfumes products (the exact list of products must be identified using the exact NCM codes).

This table below shows that when you import Pharmaceutical products into Brazil:

- you pay 2,76% and 13,03% of PIS and COFINS,

- you can record in assets a tax credit for the same amounts: 2,76% and 13,03%,
- when selling in Brazil, some non-standard rates will be applied to the sales: 2,20% and 10,30% (since the price of sale is normally higher than price of purchase, then it will be possible to use the full amount of tax credit to limit the tax payable).

PIS AND COFINS IMPORTATION			
PRODUCTS	Rate for imports	Credit	Debit
General situation	PIS: 2,10% COFINS: 9,65%	PIS: 2,10% COFINS: 9,65%	PIS: 1,65% COFINS: 7,60%
Pharmaceuticals products (some products with NCM code starting with 3002.10; 3002.20; 3002.90)	PIS: 2,76% COFINS: 13,03%	PIS: 2,76% COFINS: 13,03%	PIS: 2,10% COFINS: 9,90%
Perfumes products (some products with NCM code starting with 3303.00 to 3333.07)	PIS: 3,52% COFINS: 16,48%	PIS: 3,52% COFINS: 16,48%	PIS: 2,20% COFINS: 10,30%

The tax basis for the calculation of PIS – Importation and COFINS – Importation will be the amount paid to the foreign service provider, without deducting the Withholding Income tax and adding the ISS and the PIS and COFINS themselves.

THE SIMULATOR FOR CALCULATION OF TAXES ON EXPORTATION TO BRAZIL

These calculations are complex; fortunately, the Ministry of Economy provides a simulator (in Portuguese only, and available on <http://www.receita.fazenda.gov.br/Aplicacoes/ATRJO/SimuladorImportacao/default.htm>), which calculates all taxes due for each product referenced in the NCM.

To use this simulator, one only needs to enter:

- the NCM code of the product,
- the customs value,
- the currency,

- the rate of ICMS (variable depending on the state).

This simulator - although in Portuguese - is easy to use. By typing in these four information, it automatically gives the amounts of II, IPI, PIS and COFINS.

In Appendix 9 can be found an example of a simulation conducted on a laboratory / pharmaceutical product. The following data were entered in this example:

NCM code:	3926.90.40
customs value:	100
currency:	Euro
ICMS rate:	17%

The results are those calculated above.

EXCEPTIONS

There are numerous exceptions. This simulation tool is not enough to get all information on the level of taxes that the imported products will incur in Brazil. Here are some exceptions:

MANAUS FREE ZONE

At the heart of the Amazonian State, the Industrial Pole of Manaus ("PIM"), is the main tax-friendly business zone of Brazil.

Decree-Law 288/67 set up the FTZM by granting significant tax exemptions and incentives. It set forth that the sale of domestic goods to the FTZM for consumption or manufacturing processes must be equal to foreign trade transactions, for tax purposes. It is important to note that in general, exports from Brazil are exempt from taxes.

Traditionally, all goods imported from abroad into the PIM for the fisheries and livestock sectors (traditional sectors of the economy of the State of Amazonia), are exempt from IPI.

For other sectors, goods consumed or used as fixed assets by companies in the PIM, are exempt from import duty (II).

Components, raw materials, packing furniture, secondary or intermediate products for processing, benefit from a suspension arrangement at the entrance to PIM: they are exempt from II if the final product made partly out of the imported component is deemed to be exported. If they enter the Brazilian market, they nonetheless have an 88% reduction on normal fees.

For the automotive and computer industries, parts and components are given a reduction which is weighted by a factor of integration taking into account the local added value. The reduction varies between 65% and 88%.

In all cases, for a foreign product, irrespective of its use, the ICMS must be paid at the rate of 17% when entering the territory of Amazonia (or 25% for a limited number of products).

In return for tax benefits, and except for foreign machinery and equipment, it is necessary to pay two taxes (1.96% and 2% of FOB value) with the SUFRAMA and the Secretaria da Fazenda (SEFAZ).

Moreover, the Brazilian government plans to create 22 new tax-friendly zones to simplify the installation of businesses, with a total exemption from Federation and Federal States taxes. In return, they will have to export abroad a minimum of 80% of their production.

The advantages granted by the State of Amazonia have been successful. Until recently, Foxconn - which manufactures electronic devices, including the I-phone and I-pad on behalf of Apple - announced the creation of a factory in Manaus to bypass the Brazilian customs barriers. It will be the only Foxconn factory outside Asia!

AUTOMOTIVE

A decision from the tax authorities provides a good example of an exception: to reduce imports of foreign made vehicles and encourage local production, the Minister of Industry and Foreign Trade announced an increase of 30 points of the IPI (thus reaching 45%). This decision was highly detrimental to South Korean and Chinese car manufacturers.

Local manufacturers must also use at least 65% of local components to avoid exposure to the same penalties.

Taxes on importation of vehicles are capped at 35% by the World Trade Organization (this rate has long been applied by Brazil). This is why the government raised another tax, to circumvent this WTO rule: Tax on importation is left unchanged at 35%, but IPI is now at 45%.

Thus, the simulator - based on the product code "3926.90.40" gives the following information:

Import Tax: 35%

IPI rates: 45%

PIS rate: 2%

COFINS rate: 9.6%

Such trade protection measures were also taken to protect the textile / clothing sector.

REGULATED MARKETS

Certain sectors are particularly regulated. For example, for marketing of cosmetics and medical products, a registration with ANVISA (National Agency for Sanitary Vigilance Brazilian) is mandatory. There are the same constraints on the food sector for which the procedures are performed at the Brazilian Ministry of Agriculture, Livestock, and Supply (MAPA).

Moreover, telecommunications, media businesses, medical services, aviation and maritime sectors, as well as land ownership are regulated. The possibility of taking control is limited.

DRAWBACK

See chapter on exports out of Brazil (next chapter).

EXPORTS OF SERVICES TO BRAZIL

Like all services provided by local companies, imported services are subject to the following taxes: PIS, COFINS, and ISS. On top of that there is a 25% withholding tax when the payment is made.

The ISS is calculated in the same way as for local services.

The Brazilian IRS issued Normative Instruction 1,639 on May 10, 2016, in order to regulate the use of *ATA Carnet for the temporary admission of goods into Brazil*. This new system represents a considerable simplification of customs formalities for this system. The ATA system allows the free movement of goods across frontiers and their temporary admission into a customs territory with relief from duties and taxes, by covering the transaction with a single document known as the ATA carnet, which is secured by an international guarantee system.

CHAPTER 14 - EXPORTING FROM BRAZIL

TAXES ON EXPORTATIONS

GENERAL

The Tax on Exportation (Imposto de Exportação, "IE") is the exclusive competence of the Federation (Article 153, II). It determines the applicable rate.

The taxes are due as soon as customs administrative documents are filed, whether or not there was a contract.

RATE AND BASIS FOR CALCULATION

The calculation is based on the normal price at which the product - or equivalent - would be sold under normal conditions of competition in the international market. The FOB sale's price is indicative of the normal price.

To determine the basis for calculating the tax, the sale's price of the exported goods may not be less than the purchase price or the cost of production, plus taxes paid, and a 15% margin on the total sum of costs and taxes.

The current rate is 30%. The federal government can increase this rate but does not go beyond 150%. However, in an effort to improve the trade balance, the tax applied is commonly 0%.

AID FOR EXPORTING

PROEX

The Ministry of Foreign Trade has developed an Export Financing Program ("PROEX" for *Programa de Financiamento às Exportações*). This federal program is intended primarily for small and medium-sized companies. Only those with gross annual revenues under 600 million R\$ can participate in this program.

There is also a list of products eligible for this program; this list is based on the NCM. In practice, almost all products and services are eligible, only raw materials are excluded.

For each of the products and services, there is a maximum duration

of funding ranging from 2 to 120 months.

The benefits offered by PROEX are:

- Financing of the value of the contract,
- Fast approval of the financing by Banco do Brasil,
- No minimum limit of value or quantity,
- There is no cost if the process of exportation is stopped by the exporter,
- All usual customary terms and conditions applying to international trade (Incoterms) are accepted,

In return, PROEX requires guarantees.

To apply for the PROEX funding, it is necessary to contact one of the 18 regional foreign trade support offices of Banco do Brasil (Gerencia Regional de Apoio ao Comercio Exterior do Banco do Brasil - "GECEX"). More information (in Portuguese) is found at: <http://www.desenvolvimento.gov.br/sitio/interna>

BNDES - EXIM

Similarly, the BNDES (Banco Nacional de Desenvolvimento Economico e Social) offers the EXIM financing. This program may cover both the financing of the process of production of goods for export, and the financing of the sale abroad.

Financing of the process of production:

- up to 18 months for goods and services,
- for the car industry, financing of up to 450 days of production,
- special terms of financing for increasing capacities of production to export,

Financing of the sale:

- Financing of the sale of goods and services exported for a period up to a maximum of 12 years,

More information (in Portuguese) at: <http://www.bndes.gov.br>

DRAWBACK

Drawback is a procedure of incentives for exportation, starting as early as the process of importation of goods necessary for local production. The idea is to import raw materials, semi-finished products or other goods tax free, provided they are used in a production process on the local market, and that finished products are exported.

There are three forms of Drawback:

- Drawback "suspension": the payment of taxes on imported products shall be suspended until evidence that finished products have been exported is provided.
- Drawback "exemption": if it appears that some parts have been included in the process of production of goods exported, and have been fully taxed (because not properly identified beforehand), it is subsequently possible to import the same quantity of parts without paying taxes.
- Drawback "restitution": same scenario as 'exemption', but in this case, tax is paid, and a credit on taxes is granted.

PIS AND COFINS REFUND

As stated in a previous chapter, PIS and COFINS do not apply on Exports.

Companies that use the tax non-cumulative regime (Regime REAL) can deduct from PIS COFINS collected on sales (debit) payable the amount of PIS and COFINS paid on purchases (PIS COFINS credit). If most of sales are realised on the Brazilian soil, then there is a large amount of PIS COFINS debit and it would be possible to deduct the whole amount of PIS COFINS credit from the PIS COFINS debit (calculated on the sales realised in Brazil):

PIS COFINS debit (collected on sales in Brazil) - PIS COFINS credit (paid on purchases) = PIS COFINS net amount payable to the tax administration.

On the other hand, if most of sales are realised abroad, then the company has a small amount of PIS COFINS debit (calculated on the small share of sales realised in Brazil) and a still a large amount of PIS COFINS credit.

Example with a company exporting 100% of its sales:

PIS COFINS credit – 0 (PIS COFINS debit) = PIS COFINS credit unused.

Since this company will not be able to use its PIS COFINS credit, under Brazilian law, taxpayers are entitled to request a refund, which can be converted into an offset against any other federal tax debts.

For many years, the Federal Revenue Office claimed that this right applies only to credits derived from purchases on the domestic market and, therefore, has denied the refunds (and offsets) of PIS/COFINS-Import tax credits linked to subsequent exports.

This controversy may have reached a conclusion in the context of Private Letter Ruling 70/2018. This ruling recognizes the taxpayers' eligibility for a refund (and offset against other federal taxes) of the PIS/COFINS-Import tax non-cumulative credits linked to exports.

GSP TREATMENT

The GSP, also known as the Generalized System of Preferences, is a program designed to encourage monetary prosperity in developing countries throughout the world.

The countries and bodies currently granting GSP treatment to Brazilian products are:

- Australia;
- Japan;
- Norway;
- New Zealand;
- Switzerland;

- the United States; and
- the Eurasian Economic Community.

The EU has stopped granting GSP to Brazil on 1st Jan 2014.

In Brazil, the authority responsible for the GSP is SECEX's Sub-secretariat of International Negotiations. In order to obtain GSP treatment for a product, the following requirements must be complied with:

- the product must be included in the GSP list of the grantor country;
- the product must originate from the exporter beneficiary country;
- the product must be transported directly from the beneficiary exporter country to the grantor importing country; and
- a proof of origin adequate to the Customs Authority, usually the Certificate of Origin Form A, must be presented.

To be considered as originating in a country, the product must be entirely manufactured in the country, or must suffer a 'substantial transformation', according to the Rules of Origin of the grantor country. In Brazil, according to MDIC Ordinance No. 43 of 22 November 2012, Banco do Brasil is the only institution allowed to issue the Certificate of Origin Form A, which is the necessary document in order for the export to be afforded preferential treatment granted under the GSP.

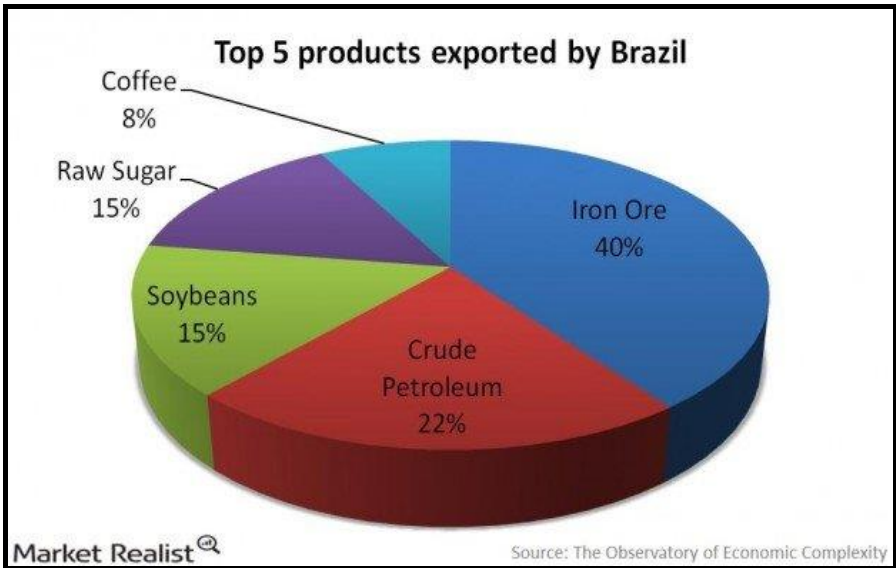
Further information may be found at www.mdic.gov.br/comercio-exterior/negociacoes-internacionais/807-sgp-sistema-geral-de-preferencias.

APPENDICES

Despite our in depth research, some information is not available in English, but in Portuguese only.

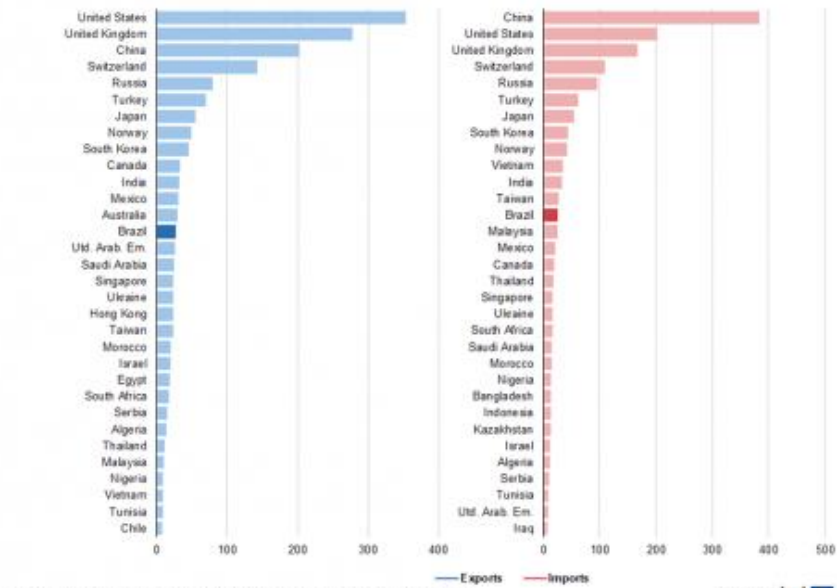
APPENDIX 1 - Macroeconomics info

MAIN EXPORTATIONS



TRADE EUROPE AND BRAZIL

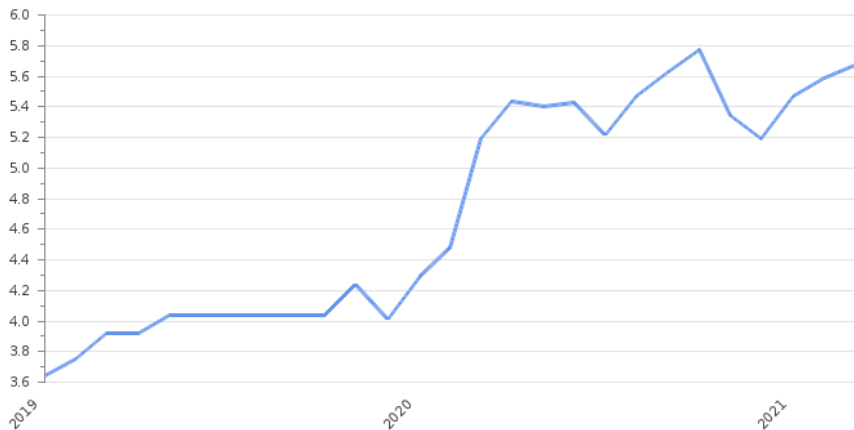
Top trade in goods partners of the EU with a focus on Brazil, 2020
(€ billion)



Source: Eurostat (online data code: ext_st_eu27_2020sitc and DS-018995)

eurostat

REAL vs USD under BOLSONARO



INTERNATIONAL RANKING

Brazil in the World – Production and Exports of Selected Products

<i>PRODUCTS</i>	<i>PRODUCTION</i>	<i>EXPORTS</i>
AÇÚCAR / SUGAR / AZÚCAR	1º	1º
CAFÉ / COFFEE	1º	1º
SUCO DE LARANJA / ORANGE JUICE	1º	1º
ETANOL / ETHANOL	2º	1º
CARNE BOVINA / BEEF / CARNE	2º	1º
FUMO / TOBACCO / HUMO	2º	1º
SOJA EM GRÃO / SOY BEANS / GRANOS DE SOJA	2º	2º
COUROS E PELES / LEATHER AND FUR	2º	4º
CARNE DE FRANGO / CHICKEN MEAT / POLLO	3º	1º
MINÉRIO DE FERRO / IRON ORE	3º	2º
CALÇADOS / SHOES / CALZADOS	3º	6º
ÓLEO DE SOJA / SOYBEAN OIL / ACEITE DE SOJA	4º	2º
FARELO DE SOJA / SOYBEAN RESIDUE	4º	2º
MILHO / MAIZE / MAÍZ	4º	3º
AVIÕES / AIRPLANES / AVIONES	4º	4º
CARNE SUÍNA / PORK MEAT / CARNE DE CERDO	4º	4º
ALGODÃO / COTTON / ALGODÓN	5º	5º
AUTOMÓVEIS / CARS / AUTOMÓVILES	5º	12º
ALUMÍNIO / ALUMINIUM / ALUMINIO	7º	6º
AÇO / STEEL / ACERO	9º	13º

Sources : EMBRAER; ABICALÇADOS; ANFAVEA; ACICB; GTIS; U. S. Geological Survey

APPENDIX 2 – ISS RATE (Municipality of São Paulo)

DESCRIPTION DES SERVICES	TAUX
Acupuntura.	2%
Acupunturista (regime especial - profissional autônomo).	2%
Administração de fundos quaisquer.	2,5%
Afiador de utensílios domésticos e afinador de instrumentos musicais (não estabelecidos) (regime especial - profissional autônomo).	2%
Alfaiataria, costura e congêneres, quando o material for fornecido pelo usuário final, exceto aviamento (regime especial - profissional autônomo).	2%
Ambulatórios e prontos socorros.	2%
Análises clínicas, patologia, eletricidade médica, radioterapia, quimioterapia, ultra-sonografia, ressonância magnética, radiologia, tomografia e congêneres (regime especial - profissional autônomo).	2%
Análises clínicas, patologia, eletricidade médica, radioterapia, quimioterapia, ultra-sonografia, ressonância magnética, radiologia, tomografia e congêneres (regime especial - sociedade).	2%
Análises clínicas, radioterapia, quimioterapia, ultra-sonografia, ressonância magnética, radiologia, tomografia e congêneres.	2%
Arrendamento mercantil (leasing) de quaisquer bens, inclusive cessão de direitos e obrigações, substituição de garantia, alteração, cancelamento e registro de contrato, e demais serviços relacionados ao arrendamento mercantil (leasing).	2%
Artes gráficas, tipografia, diagramação, paginação e gravação (regime especial - profissional autônomo).	2%
Artes gráficas, tipografia, diagramação, paginação e gravação.	2%
Artista circense e músico (não estabelecido) (regime especial - profissional autônomo).	2%
Asilos.	2%
Bancos de sangue e de órgãos e congêneres, na área veterinária.	2%
Bancos de sangue, leite, pele, olhos, óvulos, sêmen e congêneres.	2%
Casas de recuperação.	2%
Casas de repouso e congêneres.	2%
Clínicas e casas de saúde.	2%
Coleta de sangue, leite, tecidos, sêmen, órgãos e materiais biológicos de qualquer espécie.	2%
Coleta de sangue, leite, tecidos, sêmen, órgãos e materiais biológicos de qualquer espécie, na área veterinária.	2%

Composição gráfica, fotocomposição, clicheria, zincografia, litografia, fotolitografia, estereotípia, serigrafia e outras matrizes de impressão.	2%
Composição gráfica, fotocomposição, clicheria, zincografia, litografia, fotolitografia, estereotípia, serigrafia e outras matrizes de impressão (regime especial - profissional autônomo).	2%
Corretagem de seguros.	2%
Corretor de seguros (regime especial - profissional autônomo).	2%
Creches.	2%
Datilógrafo (não estabelecido) (regime especial - profissional autônomo).	2%
Dentista (regime especial - profissional autônomo).	2%
Elaboração de programas de computadores (software), inclusive de jogos eletrônicos.	2%
Enfermagem, inclusive serviços auxiliares (regime especial - sociedade).	2%
Enfermagem, inclusive serviços auxiliares.	2%
Enfermeiro (regime especial - profissional autônomo).	2%
Engraxate (regime especial - profissional autônomo).	2%
Ensino regular pré-escolar, fundamental e médio, inclusive cursos profissionalizantes.	2%
Ensino superior, cursos de graduação e demais cursos sequenciais.	2%
Ensino superior, cursos de pós-graduação, mestrado, doutorado, pós-doutorado.	2%
Escolta, inclusive de veículos e cargas (regime especial - profissional autônomo).	2%
Escolta, inclusive de veículos e cargas.	2%
Espetáculos circenses.	2%
Espetáculos teatrais.	2%
Fisioterapeuta (regime especial - profissional autônomo).	2%
Fisioterapia (regime especial - sociedade).	2%
Fisioterapia.	2%
Fonoaudiologia (regime especial - sociedade).	2%
Fonoaudiologia.	2%
Fonoaudiólogo (regime especial - profissional autônomo).	2%
Fornecimento de mão-de-obra, mesmo em caráter temporário, inclusive de empregados ou trabalhadores, avulsos ou temporários, contratados pelo prestador de serviço.	2%
Fornecimento de mão-de-obra, mesmo em caráter temporário, inclusive de empregados ou trabalhadores, avulsos ou temporários, contratados pelo prestador de serviço (regime especial - profissional autônomo).	2%

Ginástica, dança, esportes, natação, artes marciais e demais atividades físicas.	2%
Guarda, tratamento, amestramento, embelezamento, alojamento e congêneres, relativos a animais.	2%
Guardador, tratador, amestrador, embelezador, alojador e congêneres, relativos a animais (regime especial - profissional autônomo).	2%
Hospitais, clínicas, ambulatorios, prontos-socorros e congêneres, na área veterinária.	2%
Hospitais.	2%
Inseminação artificial, fertilização in vitro e congêneres, na área veterinária.	2%
Inseminação artificial, fertilização in vitro e congêneres.	2%
Instrumentação cirúrgica.	2%
Instrutor de ginástica, dança, esportes, natação, artes marciais e demais atividades físicas (regime especial - profissional autônomo).	2%
Jardinagem, inclusive corte e poda de árvores (regime especial - profissional autônomo).	2%
Laboratórios de análise na área veterinária.	2%
Laboratórios.	2%
Licenciamento ou cessão de direito de uso de programas de computação, inclusive distribuição.	2%
Limpeza, manutenção e conservação de imóveis, chaminés, piscinas e congêneres, inclusive fossas.	2%
Limpeza, manutenção e conservação de imóveis, chaminés, piscinas e congêneres, inclusive fossas, prestados por profissional autônomo, cujo desenvolvimento não exija formação específica. Desentupidor de esgotos e fossas (não estabelecido) (regime especial - profissional autônomo).	2%
Medicina e biomedicina (regime especial - sociedade).	2%
Medicina e biomedicina.	2%
Medicina veterinária e zootecnia (regime especial - sociedade).	2%
Medicina veterinária e zootecnia.	2%
Médico e biomédico (regime especial - profissional autônomo).	2%
Médico veterinário e zootécnico (regime especial - profissional autônomo).	2%
Nutrição.	2%
Obstetra (regime especial - profissional autônomo).	2%
Obstetrícia (regime especial - sociedade).	2%
Obstetrícia.	2%
Odontologia (regime especial - sociedade).	2%
Odontologia.	2%
Óperas, ballet, danças, concertos, recitais e congêneres.	2%

Ortópica (regime especial - sociedade).	2%
Ortópica.	2%
Ortópico (regime especial - profissional autônomo).	2%
Outros planos de saúde que se cumpram através de serviços de terceiros contratados, credenciados, cooperados ou apenas pagos pelo operador do plano mediante indicação do beneficiário.	2%
Parques de diversões, centros de lazer e congêneres (contribuinte não estabelecido no Município de São Paulo).	2%
Parques de diversões, centros de lazer e congêneres.	2%
Patologia e eletricidade médica.	2%
Planejamento, organização e administração de feiras, exposições, congressos e congêneres.	2%
Planejamento, organização e administração de feiras, exposições, congressos e congêneres (regime especial - profissional autônomo).	2%
Planos de atendimento e assistência médico-veterinária.	2%
Planos de medicina de grupo ou individual e convênios para prestação de assistência médica, hospitalar, odontológica e congêneres.	2%
Prestação de serviço não referenciado em outro código do grupo Saúde, prestado por profissional autônomo, cujo desenvolvimento exija formação em nível médio.	2%
Prestação de serviço não referenciado em outro código do grupo Saúde, prestado por profissional autônomo, cujo desenvolvimento exija formação em nível superior ou por quem exerça, pessoalmente e em caráter privado, atividade por delegação do Poder Público.	2%
Professor de ensino regular pré-escolar, fundamental e médio, inclusive cursos profissionalizantes (regime especial - profissional autônomo).	2%
Professor de ensino superior, inclusive cursos de graduação, pós-graduação, mestrado, doutorado, pós-doutorado e demais cursos sequenciais (regime especial - profissional autônomo).	2%
Próteses sob encomenda (regime especial - sociedade).	2%
Próteses sob encomenda.	2%
Protético (regime especial - profissional autônomo).	2%
Psicanálise.	2%
Psicologia, clínica ou não (regime especial - sociedade).	2%
Psicologia.	2%
Psicólogo, clínico ou não (regime especial - profissional autônomo).	2%
Sanatórios, manicômios e congêneres.	2%
Sapateiro remendão (regime especial - profissional autônomo).	2%
Serviços de pesquisas e desenvolvimento de qualquer natureza, elaboração de programas de computadores (software), inclusive de jogos eletrônicos, e licenciamento ou cessão de direito de uso de	2%

programas de computação, inclusive distribuição (regime especial - profissional autônomo).	
Serviços de pesquisas e desenvolvimento de qualquer natureza.	2%
Serviços farmacêuticos.	2%
Suporte técnico em informática, inclusive instalação, configuração e manutenção de programas de computação e bancos de dados.	3%
Técnico em enfermagem, inclusive serviços auxiliares (regime especial - profissional autônomo).	2%
Terapeuta de qualquer espécie destinado ao tratamento físico, orgânico e mental, inclusive massoterapia (regime especial - profissional autônomo).	2%
Terapeuta ocupacional (regime especial - profissional autônomo).	2%
Terapia ocupacional (regime especial - sociedade).	2%
Terapia ocupacional.	2%
Terapias de qualquer espécie destinadas ao tratamento físico, orgânico e mental, inclusive massoterapia.	2%
Transporte de escolares (regime especial - profissional autônomo).	2%
Transporte de escolares.	2%
Transporte por ônibus (concessionária e permissionárias).	Isento
Transporte por táxi, explorado por pessoa jurídica.	2%
Transporte por táxi, explorado por proprietário de um único veículo dirigido por ele próprio, sem qualquer auxiliar ou associado (regime especial - profissional autônomo).	2%
Transporte público de passageiros, realizado pela Companhia do Metropolitano de São Paulo (METRÔ).	2%
Unidade de atendimento, assistência ou tratamento móvel e congêneres.	2%
Unidade de atendimento, assistência ou tratamento móvel e congêneres, na área veterinária.	2%
Vigilância, segurança ou monitoramento de bens e pessoas (regime especial - profissional autônomo).	2%
Vigilância, segurança ou monitoramento de bens e pessoas.	2%
DEMAIS SERVIÇOS	5%

SOURCE: <http://www.dpc.com.br/artigos/detalhes/aliquotas-do-iss-municipio-de-sao-paulo>

Nos recherches n'ont pas permis d'identifier l'existence d'un site d'information unique donnant les taux d'ISS de toutes les Municipalités Du Brésil. Il est nécessaire de faire des recherches au cas par cas.

APPENDIX 3 – ICMS RATE

(Extract – State of São Paulo)

Rate	Operations / Prestations
25%	Nas operações internas e de importação com as seguintes mercadorias: a) bebidas alcoólicas classificadas nas posições 2204, 2205 e 2208, exceto os códigos 2208.40.0200 e 2208.40.0300; b) fumo e seus sucedâneos manufaturados, classificados no Capítulo 24; c) perfumes e cosméticos classificados nas posições 3303, 3304, 3305 e 3307, exceto as posições 3305.10 e 3307.20, os códigos 3307.10.0100 e 3307.90.0500, e as preparações antisolares e os bronzeadores, ambos da posição 3304; d) peleteria e suas obras e peleteria artificial classificadas nos códigos 4303.10.9900 e 4303.90.9900; e) motocicletas de cilindrada superior a 250 centímetros cúbicos, classificados nos códigos 8711.30 a 8711.50; f) asas-delta, balões e dirigíveis classificados nos códigos 8801.10.0200 e 8801.90.0100; g) embarcações de esporte e de recreio classificadas na posição 8903; h) armas e munições, suas partes e acessórios, classificadas no Capítulo 93; i) fogos de artifício classificados na posição 3604.10; j) trituradores domésticos de lixo classificados na posição 8509.30; k) aparelhos de sauna elétricos classificados no código 8516.79.0800; l) aparelhos transmissores e receptores (Walkie-talkie), classificados no código 8525.20.0104; m) binóculos classificados na posição 9005.10; n) jogos eletrônicos de vídeo (video-jogo), classificados no código 9504.10.0100; o) bolas e tacos de bilhar classificados no código 9504.20.0202; p) cartas para jogar classificadas na posição 9504.40; q) confetes e serpentinas classificados no código 9505.90.0100; r) raquetes de tênis classificadas na posição 9506.51; s) bolas de tênis classificadas na posição 9506.61; t) esquis aquáticos classificados no código 9506.29.0200; u) tacos para golfe classificados na posição 9506.31;
12%	Aplica-se nas seguintes operações internas e de importação e prestações: I - serviços de transporte;

II - ave, coelho ou gado bovino, suíno, caprino ou ovino em pé e produto comestível resultante do seu abate, em estado natural, resfriado ou congelado;

III - farinha de trigo, bem como mistura pré-preparada de farinha de trigo classificada no código 1901.20.9900 da Nomenclatura Brasileira de Mercadorias -

IV - pedra e areia, no tocante às saídas;

V - implementos e tratores agrícolas, máquinas, aparelhos e equipamentos industriais e produtos da indústria de processamento eletrônico de dados, neste último caso desde que não abrangidos pela alíquota de 7%, observadas a relação dos produtos alcançados e a disciplina de controle estabelecidas pelo Poder Executivo;

VI - óleo diesel e álcool etílico hidratado carburante;

VII - ferros e aços não planos comuns, a seguir indicados;

1 - fio-máquina de ferro ou aços não ligados:

a) dentados, com nervuras, sulcos ou relevos, obtidos durante a laminagem, 7213.10.00;

b) outros, de aços para tornejar, 7213.20.00;

2 - barras de ferro ou aços não ligados, simplesmente forjadas, laminadas, estiradas ou extrudadas, a quente, incluídas as que tenham sido submetidas a torção após laminagem:

a) dentadas, com nervuras, sulcos ou relevos, obtidos durante a laminagem, ou torcidas após a laminagem, 7214.20.00;

b) outras: de seção transversal retangular, 7214.91.00; de seção circular, 7214.99.10; outras, 7214.99.90;

3 - perfis de ferro ou aços não ligados:

a) perfis em "U", "I" ou "H", simplesmente laminados, estirados ou extrudados, a quente, de altura inferior a 80 mm, 7216.10.00;

b) perfis em "L" simplesmente laminados, estirados ou extrudados, a quente, de altura inferior a 80 mm, 7216.21.00;

c) perfis em "T" simplesmente laminados, estirados ou extrudados, a quente, de altura inferior a 80 mm, 7216.22.00;

d) perfis em "U" simplesmente laminados, estirados ou extrudados, a quente, de altura igual ou superior a 80 mm, 7216.31.00;

e) perfis em "I" simplesmente laminados, estirados ou extrudados, a quente, de altura igual ou superior a 80 mm, 7216.32.00;

f) fios de ferro ou aços não ligados: outros, não revestidos, mesmo polidos, 7217.10.90;

4 - armações de ferro prontas, para estrutura de concreto armado ou argamassa armada, 7308.40.00;

5 - grades e redes, soldadas nos pontos de interseção, de fios com, pelo menos, 3 mm na maior dimensão do corte transversal e com malhas de 100 cm² ou mais, de superfície de aço, não revestidas, para estruturas ou obras de concreto armado ou argamassa armada, 7314.20.00;

6 - outras grades e redes, soldadas nos pontos de interseção:

a) galvanizadas, 7314.31.00;

b) de aço, não revestidas, para estruturas ou obras de concreto armado ou argamassa armada, 7314.39.00;

7 - outras telas metálicas, grades e redes:

a) galvanizadas, 7314.41.00;

b) recobertas de plásticos, 7314.42.00;

8 - arames:

a) galvanizados, 7217.20.90;

b) plastificados, 7217.90.00;

c) farpados, 7313.00.00;

9 - gabião, 7326.20.00.

10 - grampos de fio curvado, 7317.00.20 (Lei 6.374/89, art. 34, § 7º, 10, acrescentado pela Lei 10.708/00, art. 2º, III);

(Acrescentado o item 10 pelo Decreto 45.644 de 26.01.0 (DOE 27/01/2001), efeitos a partir de 01/01/2001);

11 - pregos, 7317.00.90 (Lei 6.374/89, art. 34, § 7º, 11, acrescentado pela Lei 10.708/00, art. 2º, III);

(Acrescentado o item 11 pelo Decreto 45.644 de 26.01.01 (DOE 27/01/2001), efeitos a partir de 01/01/2001);

VIII - produtos cerâmicos e de fibrocimento, a seguir indicados:

1 - argamassa, 3214.90.00;

2 - tijolos cerâmicos, não esmaltados nem vitrificados, 6904.10.00;

3 - tijoleiras (peças ocas para tetos e pavimentos) e tapa-vigas (complementos da tijoleira) de cerâmica não esmaltada nem vitrificada, 6904.90.00;

4 - telhas cerâmicas, não esmaltadas nem vitrificadas, 6905.10.00;

5 - telhas e lajes planas pré-fabricadas, 6810.19.00;

6 - painéis de lajes, 6810.91.00;

7 - pré-lajes e pré-moldados, 6810.99.00;

8 - blocos de concreto, 6810.11.00;

9 - postes, 6810.99.00;

7%

Nas operações internas e de importação com:

I - preservativos classificados no código 4014.10.0000 da Nomenclatura Brasileira de Mercadorias do Sistema Harmonizado - NBM/SH vigente em 31 de dezembro de 1996;

II- ovo integral pasteurizado, ovo integral pasteurizado desidratado, clara pasteurizada desidratada ou resfriada e gema pasteurizada desidratada ou resfriada;

III - embalagens para ovo "in natura", do tipo bandeja ou estojo, com capacidade para acondicionamento de até 30 (trinta) unidades.

- 4%** Nas prestações interestaduais de transporte aéreo de passageiro, carga e mala postal, em que o destinatário do serviço seja contribuinte do imposto.
- 18%** Nas demais operações e prestações internas e de importação (exceto nas operações com veículos automotores).

Fundamentação Legal: arts. 52 a 55 do RICMS/SP.

Source : www.idealsoftwares.com.br/tabelas/aliquotas_sp.html

APPENDIX 4 – IPI RATE_(ex of chap.8)

NCM	DESCRIÇÃO	ALÍQUOTA (%)
8801.00.00	Balões e dirigíveis; planadores, asas voadoras e outros veículos aéreos, não concebidos para propulsão com motor.	10
88.02	Outros veículos aéreos (por exemplo, helicópteros, aviões); veículos espaciais (incluindo os satélites) e seus veículos de lançamento, e veículos suborbitais.	
8802.1	-Helicópteros:	
8802.11.00	-De peso não superior a 2.000kg, vazios	10
8802.12	-De peso superior a 2.000kg, vazios	
8802.12.10	De peso inferior ou igual a 3.500kg	10
8802.12.90	Outros	10
8802.20	-Aviões e outros veículos aéreos, de peso não superior a 2.000kg, vazios	
8802.20.10	A hélice	10
8802.20.2	A turbohélice	
8802.20.21	Monomotores	10
8802.20.22	Multimotores	10
8802.20.90	Outros	10
8802.30	-Aviões e outros veículos aéreos, de peso superior a 2.000kg, mas não superior a 15.000kg, vazios	
8802.30.10	A hélice	10
8802.30.2	A turbohélice	
8802.30.21	Multimotores, de peso inferior ou igual a 7.000kg, vazios	10
8802.30.29	Outros	10
8802.30.3	A turbojato	
8802.30.31	De peso inferior ou igual a 7.000kg, vazios	10
8802.30.39	Outros	10
8802.30.90	Outros	10
8802.40	-Aviões e outros veículos aéreos, de peso superior a 15.000kg, vazios	
8802.40.10	A turbohélice	10
8802.40.90	Outros	10
8802.60.00	-Veículos espaciais (incluindo os satélites) e seus veículos de lançamento, e veículos suborbitais	0
88.03	Partes dos veículos e aparelhos das posições 88.01 ou 88.02.	
8803.10.00	-Hélices e rotores, e suas partes	0
8803.20.00	-Trens de aterrissagem e suas partes	0
8803.30.00	-Outras partes de aviões ou de helicópteros	0
8803.90.00	-Outras	0
8804.00.00	Pára-quedas (incluindo os pára-quedas dirigíveis e os parapentes) e os pára-quedas giratórios ("rotocutes"); suas partes e acessórios.	10
88.05	Aparelhos e dispositivos para lançamento de veículos aéreos; aparelhos e dispositivos para aterrissagem de veículos aéreos em porta-aviões e aparelhos e dispositivos semelhantes; aparelhos de treinamento de voo em terra; suas partes.	
8805.10.00	-Aparelhos e dispositivos para lançamento de veículos aéreos, e suas partes; aparelhos e dispositivos para aterrissagem de veículos aéreos em porta-aviões e aparelhos e dispositivos semelhantes, e suas partes	0
8805.2	-Aparelhos de treinamento de voo em terra e suas partes:	
8805.21.00	-Simuladores de combate aéreo e suas partes	0
8805.29.00	-Outros	0

APPENDIX 5 – SERVICES SUBJECT TO WITHHOLDING TAX

- Assessoria creditícia, mercadológica, gestão de crédito, seleção e riscos, administração de contas a pagar e a receber, inclusive quando o serviço for prestado por empresa de factoring;
- Limpeza;
- Conservação de bens imóveis, exceto reformas e obras assemelhadas;
- Manutenção;
- Vigilância (inclusive escolta);
- Locação de mão-de-obra;
- Transporte de valores (não compreende os serviços de transporte interestadual ou intermunicipal de cargas ou passageiros);
- Administração de bens ou negócios em geral (exceto consórcios ou fundos mútuos para aquisição de bens);
- Advocacia;
- Análise clínica laboratorial;
- Análises técnicas;
- Arquitetura;
- Assessoria e consultoria técnica (exceto o serviço de assistência técnica prestado a terceiros concernente a ramo de indústria ou comércio explorado pelo prestador do serviço);
- Assistência social;
- Auditoria;
- Avaliação e perícia;
- Biologia e biomedicina;
- Cálculos em geral;
- Consultoria;
- Contabilidade;
- Desenho técnico;
- Economia;
- Elaboração de projetos;
- Engenharia (exceto construção de estradas, pontes, prédios e obras assemelhadas);
- Ensino e treinamento;
- Estatística;

- Fisioterapia;
- Fonoaudiologia;
- Geologia;
- Leilão;
- Medicina (exceto a prestada por ambulatório, banco de sangue, casa de saúde, casa de recuperação ou repouso sob orientação médica, hospital e pronto-socorro);
- Nutricionismo e dietética;
- Odontologia;
- Organização de feiras de amostras, congressos, seminários, simpósio e congêneres;
- Pesquisa em geral;
- Planejamento;
- Programação;
- Prótese;
- Psicologia e psicanálise;
- Química;
- Radiologia e radioterapia;
- Relações públicas;
- Serviço de despachante;
- Terapêutica ocupacional;
- Tradução ou interpretação comercial;
- Urbanismo;
- Veterinária.

APPENDIX 6 – NCM EXTRACT_(chap. 88)

NCM	DESCRIÇÃO
8801.00.00	Balões e dirigíveis; planadores, asas voadoras e outros veículos aéreos, não concebidos para propulsão com motor.
88.02	Outros veículos aéreos (por exemplo, helicópteros, aviões); veículos espaciais (incluídos os satélites) e seus veículos de lançamento, e veículos suborbitais.
8802.1	-Helicópteros:
8802.11.00	--De peso não superior a 2.000kg, vazios
8802.12	--De peso superior a 2.000kg, vazios
8802.12.10	De peso inferior ou igual a 3.500kg
8802.12.90	Outros
8802.20	-Aviões e outros veículos aéreos, de peso não superior a 2.000kg, vazios
8802.20.10	A hélice
8802.20.2	A turbohélice
8802.20.21	Monomotores
8802.20.22	Multimotores
8802.20.90	Outros
8802.30	-Aviões e outros veículos aéreos, de peso superior a 2.000kg, mas não superior a 15.000kg, vazios
8802.30.10	A hélice
8802.30.2	A turbohélice
8802.30.21	Multimotores, de peso inferior ou igual a 7.000kg, vazios
8802.30.29	Outros
8802.30.3	A turbojato
8802.30.31	De peso inferior ou igual a 7.000kg, vazios
8802.30.39	Outros
8802.30.90	Outros
8802.40	-Aviões e outros veículos aéreos, de peso superior a 15.000kg, vazios
8802.40.10	A turbohélice
8802.40.90	Outros
8802.60.00	-Veículos espaciais (incluídos os satélites) e seus veículos de lançamento, e veículos suborbitais
88.03	Partes dos veículos e aparelhos das posições 88.01 ou 88.02.
8803.10.00	-Hélices e rotores, e suas partes
8803.20.00	-Trens de aterrissagem e suas partes
8803.30.00	-Outras partes de aviões ou de helicópteros
8803.90.00	-Outras
8804.00.00	Pára-quedas (incluídos os pára-quedas dirigíveis e os parapentes) e os pára-quedas giratórios ("rotochutes"); suas partes e acessórios.
88.05	Aparelhos e dispositivos para lançamento de veículos aéreos; aparelhos e dispositivos para aterrissagem de veículos aéreos em porta-aviões e aparelhos e dispositivos semelhantes; aparelhos de treinamento de voo em terra; suas partes.
8805.10.00	-Aparelhos e dispositivos para lançamento de veículos aéreos, e suas partes; aparelhos e dispositivos para aterrissagem de veículos aéreos em porta-aviões e aparelhos e dispositivos semelhantes, e suas partes
8805.2	-Aparelhos de treinamento de voo em terra e suas partes:
8805.21.00	--Simuladores de combate aéreo e suas partes
8805.29.00	--Outros

APPENDIX 7 - INFORMATION ON THE NCM

What is the Harmonized System (HS)?

The Harmonized Commodity Classification and Coding System (HS), or simply Harmonized System, is an international method of product classification based on a code structure and related descriptions.

This System was created to promote international trade development and to improve the collection, comparison and statistical analysis, especially on foreign trade. Besides, HS facilitates international trade negotiations, develops freight costs and statistics related to different modalities of product transportation and also generates other information used by the the intervenients on foreign trade.

The composition of SH code by six digits is based on a fundamental principle that goods are classified by what they are, by their specific characteristics, such as origin, component material and application. Products are hierarchically organized in a logical numerical order, hierarchically organized by their degree of processing and sophistication.

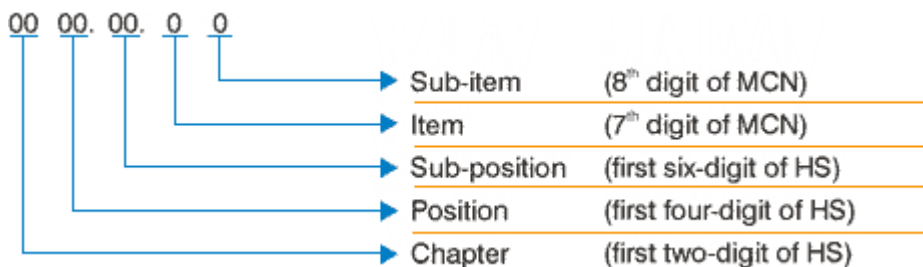
The Harmonized System (HS) is composed by:

- **Nomenclature** – Divided into 21 Sections, composed by 96 Chapters, and also by Section, Chapters and Sub-position Notes. Chapters are divided into positions and sub-positions, which are characterized by numerical codes each of them. While Chapter 77 was reserved for an eventual use in future, Chapters 98 and 99 were reserved for special use of the Contratant Parts. Brazil, for example, uses Chapter 99 to register special operations of exportation;
- **General Rules for the Interpretation of the HS** – Establish general rules for the classification of products within the Nomenclature;
- **Explanation Notes on the Harmonized System (NESH)** – Provide clarifications and interpret the Harmonized System, establishing, in details, the range and the contents of the Nomenclature.

II. Structure and Composition of Mercosur Common Nomenclature (NCM)

Brazil, Argentina, Paraguay and Uruguay adopt, since 1995, the Mercosur Common Nomenclature (NCM), which is based on the Harmonized System. O NCM is composed by 8 digits: the first six-digits are from the Harmonized System (HS); and the seventh and eighth digits were created according to a definition set up by bloc members.

The system of code classification within Mercosur Common Nomenclature (NCM) rely on the following structure:



Example: Code NCM: 0104.10.11

Ewes, in lamb or with their young

This code is the result of the following detailment:

Section	I	Live animals and animal by products
Chapter	01	Live animals
Position	0104	Live sheep and goats
Sub-position	0104.10	Sheep
Item	0104.10.1	Pure-bred breeding animals
Sub-item	0104.10.11	Ewes, in lamb or with their young

III. Simplified Directions for Product Classification

Simplified directions in order to classify products in different levels are presented below:

- Take a look at the General Rules for Interpretation of the HS and the General Complementary Rules of NCM (item IV);
- Identify the appropriate Section and Chapter, available on item VII table;

c) Click on the Chapter selected to see the table of product codes and descriptions within NCM;

d) Classify the product, following the order of the NCM classification (position, sub-position, item and sub-item), in accordance with product specific characteristics, as stated on item II;

Note: For product classification is essential to consider, when applicable, Section and Chapter Notes, available in the table of item VII. When a Section has notes, click on “See Section Notes”, at the end of Section description. Chapter Notes come before the codes and descriptions of each of them.

IV. General Rules for Interpretation of the HS and General Complementary Rules of NCM

Product classification within the Nomenclature is based on the following rules:

1. Titles of Sections, Chapters and Sub-chapters have just an indicative value. For legal matters, the classification is defined by the positions and by the Section and Chapter Notes. When it is not discrepant with the position and Notes, the classification can also be defined by the following rules.

2.a) A product can be classified in a specific position even if the product is still incomplete or unfinished. In this situation the product needs to have, in the form it is presented, at least the essential characteristic of the completed and finished product. This rule also applies to products that need fitting up.

b) Any reference to a substance in a specific position regards this substance in a pure situation, mixed or as a component of a product together with other substances. Also, any reference to by-products includes by-products formed partly or entirely by a specific substance. The classification of those mixed articles or of a composition is made in accordance with the principles of Rule number 3.

3. When the product seems to be classified in two or more positions by application of Rule 2.b) or by any other reason, the classification should be made in the following way:

a) A more specific position prevails on the more generic. However, when two or more positions refer, each one of them, to just a part of the constituent material of a mixed product or of a composed article, or also to a component of a product to be sold at retail; those position should be considered in relation to the products or articles as also specific, even if one of them presents a

more complete description of the product.

b) Mixed products, products composed by different materials or by the combination of different articles and products to be sold at retail which classification cannot be made under the application of Rule 3.a), are classified by the substance or article that gives them the essential characteristic, when it is possible to determine this characteristic.

c) In case that Rules 3.a) and 3.b) do not apply to a product, this product should be classified in the last position (considering a numerical order) of the ones that should be taken into consideration.

4. Products that cannot be classified under the Rules stated above should be classified in the position that most reflects the nature of the product.

5. Beyond the definitions above, products listed bellow should be classified under the following Rules:

a) Cases for photographic equipments, for musical instruments, for guns, for drawing instruments, for jewelry and similars, especially made to store these products for a long time, when presented together and normally sold with them, are, as a result, classified with them. However, this Rule does not apply to receptacles that give them the essential characteristic.

b) Confirming what is stated on Rule 5.a), products package classify together with the products when they are used to wrap up them. Nevertheless, this rule is not obligatory when the package is clearly used repeatedly.

6. The classification of products in a sub-position of a same position is stated, in legal matters, by the texts and Notes of these sub-positions, as well as by “mutatis mutandis”, former Rules. One can only compare sub-positions of the same level. Under the same logic of the rule just stated, Section and Chapter Notes can also be applied.

General Complementary Rules of NCM (GCR)

1. The General Rules for the Interpretation of the Harmonized System is used for, “mutatis mutandis”, the definition, under each position or sub-position, of the applicable item and, considering this last one, the definition of the related sub-item. The regional detailment (item and sub-item) is only comparable if they have the same level.

V. Explanation Notes on the Harmonized System (ENSH)

The Explanation Notes on the Harmonized System (ENHS) includes the Section, Chapter and Sub-position Notes. It is a great and detailed text that establishes the range and content of the HS Nomenclature. The publication is available for consultation in the Section of Trade Information – [NUCEX](#), in the following address:

Ministry of Development, Industry and Foreign Trade
 Secretariat of Foreign Trade
 Foreign Trade Operation Department
 Trade Information Section
 Praça Pio X, nº 54 – Loja – Centro
 Rio de Janeiro – RJ – Brazil

Legal Basis: Decree nº 97.409, of 12/23/1988 (DOU of 12/28/1988), that promulgated the International Convention on the Harmonized Commodity Classification and Coding System, as well as the corrections afterwards.

VI. Doubts on the Classification

The attendance of consultations about product classification is faculty of the Secretariat of Federal Reserve (SFR), through the General-Coordination of Taxing System and by the Regional Superintendence of the Federal Reserve.

In case of doubt about the correct classification of the product, please contact the Federal Reserve Unity of your region, and elaborate a written consultation, in accordance with directions on the website of the Secretariat of Federal Reserve:

<http://www.receita.fazenda.gov.br/srf.www/guiacontribuinte/consclassfiscmerc.htm>.

VII. Abbreviation and Symbols used by NCM

ASTM	"American Society for Testing Materials" (Sociedade Americana de Ensaio de Materiais)	kVA	kilovolt-ampere
Bq	Becquerel	kvar	kilovolt-ampere reactive
°C	Celsius	kW	kilowatt(s)
cg	centigram(s)	l	litre(s)
cm(s)	centimetre(s)	m	metre(s)
cm ²	Square centimetre(s)	m-	meta-
cm ³	Cubic centimetre(s)	m ²	square meter
cN	centinewton(s)	m Ci	microcurie
cSt	centistoke(s)	mm	millimetre(s)
g	gram(s)	mN	millinewton(s)
GHz	gigahertz	MHz	megahertz
HRC	rockwell C	MPa	megapascal(is)
Hz	hertz	N	newton(s)
IV	infrared	o-	orto-
kcal	kilocalory(s)	p-	para-
kg	kilogram(s)	t	ton(s)
kgf	kilogram(s)-force	UV	ultraviolet(s)
kN	kilonewton(s)	V	volt(s)
kPa	kilopascal(is)	vol.	volume
kV	kilovolt(s)	W	watt(s)
		%	per cent
		x°	x degree(s)

Examples:

1500g/m² - a thousand and five hundred grams for square meter

15°C - fifteen Celsius

APPENDIX 8– TEC EXTRACT

(the whole document contains 146 pages)

TEC EXTRACT (updated in March 2020)		
NCM	DESCRIÇÃO	TEC (%)
84.01	Reatores nucleares; elementos combustíveis (cartuchos) não irradiados, para reatores nucleares; máquinas e aparelhos para a separação de isótopos.	
8401.10.00	- Reatores nucleares	14BK
8401.20.00	- Máquinas e aparelhos para a separação de isótopos, e suas partes	14BK
8401.30.00	- Elementos combustíveis (cartuchos) não irradiados	14
8401.40.00	- Partes de reatores nucleares	14BK
84.02	Caldeiras de vapor (geradores de vapor), excluindo as caldeiras para aquecimento central concedidas para produção de água quente e vapor de baixa pressão; caldeiras denominadas "de água superaquecida".	
8402.1	- Caldeiras de vapor:	
8402.11.00	-- Caldeiras aquatubulares com produção de vapor superior a 45 t por hora	14BK
8402.12.00	-- Caldeiras aquatubulares com produção de vapor não superior a 45 t por hora	14BK
8402.19.00	-- Outras caldeiras para produção de vapor, incluindo as caldeiras mistas	14BK
8402.20.00	- Caldeiras denominadas "de água superaquecida"	14BK
8402.90.00	- Partes	14BK
84.03	Caldeiras para aquecimento central, exceto as da posição 84.02.	
8403.10	- Caldeiras	
8403.10.10	Com capacidade inferior ou igual a 200.000 kcal/hora	18
8403.10.90	Outras	14BK
8403.90.00	- Partes	14BK
84.04	Aparelhos auxiliares para caldeiras das posições 84.02 ou 84.03 (por exemplo, economizadores, superaquecedores, aparelhos de limpeza de tubos ou de recuperação de gás); condensadores para máquinas a vapor.	
8404.10	- Aparelhos auxiliares para caldeiras das posições 84.02 ou 84.03	
8404.10.10	Da posição 84.02	14BK
8404.10.20	Da posição 84.03	14BK
8404.20.00	- Condensadores para máquinas a vapor	14BK
8404.90	- Partes	
8404.90.10	De aparelhos auxiliares para caldeiras da posição 84.02	14BK
8404.90.90	Outras	14BK
84.05	Geradores de gás de ar (gás pobre) ou de gás de água, mesmo com depuradores; geradores de acetileno e geradores semelhantes de gás, operados a água, mesmo com depuradores.	
8405.10.00	- Geradores de gás de ar (gás pobre) ou de gás de água, mesmo com depuradores; geradores de acetileno e geradores semelhantes de gás, operados a água, mesmo com depuradores	14BK
8405.90.00	- Partes	14BK

APPENDIX 9- SIMULATOR

(screen image)

Adresse  http://www4.receita.fazenda.gov.br/simulador/Simulacao-tag.jsp	
Simulador do Tratamento Tributário e Administrativo das Importações	
Simulação do Tratamento Tributário e Administrativo das Importações	
Código NCM	3926.90.40
Descrição NCM	ARTIGOS DE LABORATÓRIO E FARMÁCIA DIPLÁSTICO
Taxa de Câmbio do Dia 12/10/2011	R\$ 1,0000
Valor Aduaneiro Convertido	R\$ 100,00
Alíquota II (%)	18,00 Tributo II R\$ 18,00
Alíquota IPI (%)	10,00 Tributo IPI R\$ 11,80
Alíquota PIS (%)	1,65 Tributo PIS R\$ 2,30
Alíquota COFINS (%)	7,60 Tributo COFINS R\$ 10,60
As alíquotas podem ser preenchidas manualmente e os tributos recalculados	
Recalcular Tributos	

APPENDIX 10 - GLOSSARY

ANVISA (National Agency for Sanitary Vigilance Brazil): Brazilian health agency,
 BACEN (Banco Central): Central Bank of Brazil,
 BNDES (Banco Nacional de Desenvolvimento Economico e Social): Development Bank mainly oriented infrastructure and export
 CEF (Caixa Economica Federal e): Economic and Federal Fund,
 CIDE (Contribuições Intervenção No. of Dominio Econômico): Contribution of 10% on transfers of funds abroad and paid by Brazilian companies,
 COFINS (CONtribuição para o da Financiamento Seguridade Social): Tax on turnover,
 CSLL (Contribuição Social sobre o lucro Liquido): Tax Benefits,
 FGTS (Fundo de Garantia do Tempo of Serviço): Reserve Fund employees,
 IBC (Instituto Brasileiro de Contadores): Company Auditors Brazilian
 IBRACON (Instituto dos Auditores Independentes do Brasil): Institute of Auditors and Accountants,
 ICMS (Imposto sober Operações relativas to circulacao of Mercadorias e Serviços de Transporte sober Interestadual e Intermunicipal de Comunicação e): Tax on the Circulation of Goods and Services Transport and Communication,
 INCRA (Instituto Nacional de Reforma Agraria Colonização e): National Institute of Spatial Planning,
 INSS (Instituto Nacional de Seguro Social): National Institute of Social Security,
 IOF (Imposto Sober Operações Financeiras): Tax on Financial Operations, Exchange and Insurance,
 IPCA (Índice Nacional De Preços Consumidor Amplo Ao): price index used to measure inflation,
 IPI (Imposto sobre Produtos Industrializados): Tax on Industrial Products,
 IPTU (e Territorial Urbano Imposto Predial): Property Tax,
 IPVA (Imposto sober Propriedade of Veículos Automotores): tax on motor vehicles,
 Personal income tax (Imposto Renda das Pessoas Físicas): Income

Tax for Individuals,
 IRPJ (Imposto Renda Pessoa Juridica): Income Tax of Legal Persons,
 ISS (Imposto Sobre Serviços): Tax on Services,
 ITBI (Imposto sobre a Transmissão Bens Imóveis): Tax on transfers for value of real property,
 ITCD (imposto transmissão of causa mortis doação e) tax on transfers of assets,
 MAPA (Ministério da Agricultura, Pecuaria Abastecimento e): Minsitère Brazilian Agriculture, Livestock and Supply,
 NCM (Nomenclatura Comun do Mercosul): Common Nomenclature of Mercosur countries and based on internationally harmonized system of classification of goods,
 PIS (Programa de Integração Social): Tax on turnover,
 PROCON (Protecção do Consumidor): consumer protection body and punishment of economic fraud,
 SEBRAE (Serviço Brasileiro cupboard as Micro Pequenas e Empresas): Brazilian Service of Support to micro and small enterprises,
 Selic (Sistema Especial de Custodia e Liquidação): Base rates of the Central Bank,
 SENAC (Serviço Nacional de Aprendizagem Comercial): National Service of Commercial Learning,
 SENAI (Serviço Nacional de Aprendizagem Industrial): National Service of Industrial Learning,
 SENATE (Serviço Nacional de Transporte do Aprendizagem): National Service Learning Transportation
 SESC (Serviço Social do Comercio): Social Service of Commerce,
 SESI (Serviço Social da Industria): Social Service of Industry,
 SEST (Serviço Social do Transporte): Social Service of Transport,

APPENDIX 11 – SOURCES OF INFORMATION

In English:

<https://tradingeconomics.com/brazil/exports>

<http://angloinfo.com>

<http://thebrazilbusiness.com> - general information (updated regularly – including on taxes)

<https://www.csmonitor.com/World/Americas/Latin-America-Monitor>

<https://www.cof.org/content/nonprofit-law-brazil>

Koury Lopes Advogados (Henrique Lopes)

In Portuguese:

<http://www.receita.fazenda.gov.br> - the federal tax,

<http://www.mte.gov.br>

<http://www.mdic.gov.br//sitio/interna/> - site of the Ministry of Development, Industry and Foreign Trade

<http://www.guiatrabalhista.com.br/> - tax information site

<http://www.desenvolvimento.gov.br> - site of the Ministry of Development, Industry and Foreign Trade

<http://www.febraban.org.br> - site of the Brazilian Federation of Banks (Federação Brasileira dos Bancos)

<http://agenciabrasil.ebc.com.br/assunto/economia> - general information site

<http://www1.folha.uol.com.br/mercado/> - general information site
IBGE (Instituto Brasileiro de Geografia e Estatística) - shows statistics IPCA inflation

<http://www.portaltributario.com.br/> - information site tax, accounting and social

<http://www.comexbrasil.gov.br/> site Brazilian Foreign Trade