



**BRAZILIAN
TAX REFORM
CONSTITUTIONAL
AMENDMENT (EC)
NO. 132/2023
FEBRUARY 2024**

TAX REFORM BRAZIL

THE CURRENT SYSTEM

Federal Taxes

PIS/COFINS: CUMULATIVE (3.65%) AND NON-CUMULATIVE SYSTEM (9.25%)
IPI: NON-CUMULATIVE BUT CHARGED ONLY UP TO THE INDUSTRIALIZED STAGE OF THE BUSINESS CYCLE (IT IS A COST FOR DISTRIBUTORS AND RETAILERS)

State Tax

ICM: RATES 17% TO 32% (UNTIL 2021)
NON-CUMULATIVE (TAX CREDIT IS LIMITED)
GENERAL RULES APPLIES TO ALL STATES
27 STATES LEGISLATIONS, DIFFERENT RATES, AND MANY SPECIFIC RULES

Municipal Tax

ISS: TAX ON SERVICES – CUMULATIVE (MAXIMUM RATE – 5%)

PIS/COFINS/IPI



CBS

ICMS/ISS



IBS

EC 132 - IBS AND CBS

NEXT STEPS

The enactment took place on December 20, 2023, as PEC 45 was converted into EC 132, which was published on December 21, 2023. The second round of the Tax Reform will be the regulation of all subjects through infra-constitutional legislation.

The Executive Branch must present to the National Congress:

- ◆ In 180 days as of the enactment, the bills of law mentioned by the EC 132 such as: a) Complementary laws for the introduction of Tax on Goods and Services (IBS) and Contribution on Goods and Services (CBS), specific and favorable regimes as well as the administration committee; and b) Ordinary law for the introduction of the Selective Tax (IS).
- ◆ In 90 days as of the enactment, the bills of law to reform income and payroll taxation.

Groups of work related to the infra-constitutional legislation were already structured.

EC 132 - IBS AND CBS

GENERAL ASPECTS

Tax on Goods and Services (IBS)

Replacement of the State VAT (ICMS) and Municipal Service Tax (ISS)
Administered by the Administration committee

Contribution on Goods and Services (CBS)

Replacement of the Federal Contributions on Gross Revenue (PIS/COFINS) and Federal Excise Tax (IPI)
Administered by the Federal Government (RFB)



Broad taxation: operations with tangible and intangible goods, rights and services, including imports. The concept of service can include any operation that is not classified as an operation with goods (every operation that generates added value, but is not classified as a good, will be considered a service).

Calculation Basis: The tax will not be part of the base itself.

Simplification and application of the destination principle.

Non-incidence: Exports and communication services.

Single legislation for all states and municipalities: Complementary Law (LC) will be edited to regulate the levy and collection.

Rates set by each federative entity: Added together, these rates will be applied equally to all operations carried out, except for the hypotheses provided for in the proposal.

Full Non-cumulative system: Offsetting the tax due by the taxpayer with the amount charged on all operations in which it is the acquirer of goods, material or immaterial, or service; except those considered for personal use or consumption and some specific regime to be defined by complementary law.

Tax incentives and benefit: Prohibited, with the exception of the favored and differentiated regimes established in the proposal; special tax regimes.

International Platform: May be liable for paying the tax.



Cashback – Refund of tax to individuals, being able to establish limits and group of beneficiaries.

EC 132 - IBS AND CBS ADMINISTRATION COMMITTEE



The Administration committee is a public entity with technical, administrative, budgetary and financial independence.

The control of the management committee will be under the responsibility of States and Municipalities on an equal basis:

Representatives of the States and the Federal District that correspond to more than **50% (fifty percent)** of the country's population

External control exercised by the States, Federal District and Municipalities

Inspection, assessment, collection and administrative or judicial representation of the tax, will be carried out, within the scope of their respective competences, by the tax administrations and attorneys' offices of the States, the Federal District and the Municipalities, which may define delegation or sharing hypotheses of competencies, with the Management Committee responsible for coordinating these administrative activities with a view to integration between the aforementioned federative entities.

EC 132- IBS AND CBS SELECTIVE TAX

One-stage taxation, calculated externally (will not form part of its own tax basis).

- ◆ It will apply to the production, commercialization or import, extraction of goods or services that are harmful to health or the environment, in accordance with complementary law.
- ◆ It will not affect electricity and telecommunications.
- ◆ Upon extraction, the tax will be charged regardless of destination, with specific rates, in order to affect the quantity of the product extracted, regardless of the sales revenue; as a ceiling of 1% of the market value of the extracted product.



Federal tax

60%

of the revenue will be allocated to States and Municipalities

2027

2027 it can only be charged as from 2027

Established by complementary law, with the rates being able to be changed by ordinary law.

Respect for the principle of annual precedence.

EC 132- IBS AND CBS FAVORED, SPECIFIC AND DIFFERENTIATED REGIMES



Tax incentives and benefits are prohibited, except for:

- ◆ The favored and differentiated regimes established in the proposal. Taxation regime will be uniformly applied throughout the country (single rate).
 - ◆ Special customs regimes.
 - ◆ Specific Regimes (it is not a tax incentive, but it is an exception to the general rule).
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The VAT format may be changed for some sectors to which specific regimes will apply that may provide for:

- ◆ Different rate and calculation basis.
- ◆ Specific credit scheme.

FAVORED TAX REGIMES

MAIN FEATURES

Manaus Free Trade Zone (ZFM) and Simples National Tax Regime current beneficial treatment are set to be continued.

Regarding **Manaus Free Trade Zone and Free Trade Areas**, the new VATs will be formatted to maintain the existing benefits for the region, in addition, other types of mechanisms could be used with the same objective (e.g., presumed credit).

- ◆ IPI on import, production or commercialization of goods that also have industrialization encouraged in the Manaus Free Trade Zone to guarantee favorable treatment for ZFM operations (non-cumulative incidence in relation to Selective Tax).

The favorable regime applied to companies under the **Simples Nacional** will be preserved under the following options:

- ◆ Collecting the taxes under the currently Simples regime – purchasers of goods or services will be entitled to IBS/CBS credit up to the amount paid by the taxpayer under Simples.
- ◆ Collecting the IBS/CBS aside from the Simples regime (while keeping SIMPLES for the other taxes) – purchaser will be entitled to IBS/CBS credit for the full amount of the IBS/CBS levied on the transaction.



Cooperative: non-incidence and transfer of credit between cooperative and cooperative members.

ICMS Tax Incentives: will be maintained until the end of their validity in 2032. Existing tax benefits will be gradually reduced and phased out at the end of the transition period.

- ◆ ICMS tax benefits can not have a date beyond 2022 and the proportional reduction of benefits starting on 2029.

DIFFERENTIATED TAX REGIMES

REDUCTION OF IBS/CBS

60% reduction

- Education and health services;
- Medical devices and medicines (100% possibility);
- Personal cleaning and personal hygiene products only for products consumed mainly by low-income families;
- Basic care products for menstrual hygiene (with the possibility of a 100% reduction);
- Accessibility devices (with the possibility of 100% reduction);
- Urban and metropolitan public transport;
- Agricultural products and inputs;
- Food;
- Events sector, artistic and cultural activities, national journalistic and audiovisual events, sporting activities and institutional communication;
- Goods and services related to national security;
- Information security and cybersecurity.

100% reduction

- National basic food basket (details below);
- Vegetables, fruits and eggs;
- Urban rehabilitation activities in historic areas and critical areas for urban recovery and conversion;
- Passenger cars, when acquired by people with disabilities and people with autism spectrum disorder, directly or through their legal representative or by professional drivers, who intend the car to be used in the rental category (taxi);
- CBS only: Services provided by a non-profit Scientific, Technological and Innovation Institution (ICT); and on higher education, under the terms of PROUNI.

DIFFERENTIATED TAX REGIMES

REDUCTION OF IBS/CBS



Presumed Credit - Granted also to acquisitions of:

- Services from independent transport providers that are not IBS/CBS taxpayers.
- Acquisition of second-hand movable property for resale.
- Acquisition of waste and other materials for recycling and reverse logistics from individuals, cooperatives or other popular organizations.



Differentiated Regime – Farmers and Agribusiness Industry:

- Farmers with revenues of up to R\$ 3.6 million may choose not to be an IBS/CBS taxpayer.
- Granting of Presumed Credit to purchasers from Farmers who are not IBS/CBS taxpayers.



Specific Regimes are applied to the following sectors and products:

- Health Care Plans and Prognosis Competitions.
- Cooperative Societies.
- Operations comprised in international treaty or convention.
- Public passenger transport services by intercity and interstate road, rail, waterway.

EC 132 - IBS AND CBS

BEGINNING OF COLLECTION OF THE CBS AND IBS



Beginning of collection of the CBS

2026 ●..... Test period: 1% offset against other taxes.

2027 ●.....

the CBS will be charged based on reference rates set by the Senate. As of this date, PIS/COFINS are extinguished and IPI rates are zero, except in relation to ZFM products.

Beginning of collection of the IBS

2029 ●..... Reduction of ICMS and ISS rates each in the proportion of 1/5 each year until total extinction at the end of 2032:

- ◆ We do not have a base date for setting these rates, so States and Municipalities may increase rates in 2028 to ensure greater collection during the transition period.

2033 ●..... Extinction of Excise Tax (IPI) (*), State VAT (ICMS) and Municipal Service Tax (ISS).

** In the case of the IPI, extinction can only occur if the mechanisms that guarantee the maintenance of the competitiveness of the ZFM and free trade areas provided for in the approved text are established. Otherwise, the IPI will be reduced to zero, with the exception of products that have industrialization encouraged in the Manaus Free Zone.*

EC 132 - IBS AND CBS

FEDERAL TRANSITION PERIOD

2029/
2033

- ◆ 90% of the collection (based on the reference rate) will be distributed based on the revenues of the substituted taxes (including funds), during the period 2024-2028 (*reverse tax war? - incentive to federative entities to increase the collection in this period*).
- ◆ 10% will be distributed based on the destination principle, where the final consumption of the good or service took place.

2034/
2078

the percentage of 90% will be reduced by 1/45th, with the rest distributed according to the destination principle.

- ◆ **ADCT - Revenue Insurance:** 3% of the IBS collected will be distributed to those who record a loss in the collection – the objective is to eliminate the loss, but this is not guaranteed (Large cities). Revenue Insurance will be reduced as of 2079.

EC 132 - IBS AND CBS

TRANSITIONAL PROVISIONS (ADCT)

ADCT – the IBS and CBS will not apply to existing taxes that will be extinguished.

Accumulated ICMS credit balances – Complementary law will regulate the possibility of offsetting these amounts with the IBS in 240 installments (except for credits arising from the acquisition of assets, whose term will be 48 months):

2033


Monetary correction of balances begins.



Complementary Law will provide for the transfer of credit balances, as well as the possibility of reimbursement if said balance is not compensated (e.g., closure of the company and the credit has not been transferred).

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