

GENERAL LAW OF IBS, CBS AND IS

-- Preliminary comments and general observations --

GENERAL RULES FOR IBS AND CBS

Tax triggering event: (i) burdensome operations with material or immaterial goods (rights), or with services in general, resulting from any legal transaction, regardless of the name utilized; and (ii) free of charge operations with goods or services expressly foreseen in the Complementary Law.

- **Services:** encompasses any operation not classified as a good;
- **Immunities:** current provisions are maintained (exports, political parties, books, non profit entities etc.)

Calculation base: full amount charged by the supplier at any title, excluding the amount of IBS, CSL and IPI, unconditional discounts, reimbursement or refunds of amounts incurred on the account and order of third parties.

Rates: will be set forth by specific legislation of each federative entity, based on certain criteria established in the Bill of Law.

Moment of the tax triggering event: (i) supply or payment, whatever takes place first, in operations with goods or services; (ii) in continuous or fractional execution operations, at each supply of good or service or at each payment, whatever occurs first; (iii) at the moment in which the payment is due (a) in water, gas, electric energy supply, sanitation and communication services, and (b) in continuous or fractional execution operations when it is impossible to identify the moment of supply or delivery of the good or end of the service rendering.

Operation location: (i) in operations with material movable goods, the location of supply or delivery of the good to the recipient; (ii) in operations with real estate, the place where the estate is located; (iii) in operations with services physically rendered on the individual or physically enjoyed by the individual, the place of the service rendering; (iv) in respect to services related to events in general, the place of the event which the service relates to; (v) in respect to operations with services rendered on a material moveable good, the location of the place of the service rendering; (vi) in respect to passengers transport services, the place of the service rendering; (vii) in respect to cargo transport service, the place of supply or delivery of good to the recipient; (viii) in communication service where there is physical transmission, the place of receipt of the services; and (ix) in relation to the remaining services and immaterial movable goods, including rights, the place of the main residence of the recipient.

NON-CUMULATIVE REGIME: possibility to ascertain credits depends on the effective payment (including by means of offsetting of credits) of IBS and CBS amounts levied on operations in which the taxpayer is the acquirer of the good or service, except the operations deemed as for use or personal consumption and Other situations foreseen in the Complementary Law.

- different ascertainment for IBS and CBS with no possibility of offsetting IBS with CBS or vice-versa;
- credit depends on the tax document stating the operation that must indicate the goods and services in relation to which the enjoyment of credits is prohibited;
- reversal of credits in case the acquired good perishes, deteriorates or is stolen or lost;
- immune, exempt or subject to zero rate operations do not enable the ascertainment and enjoyment of credit to use in subsequent operations. In the event of deferral or suspension, the credit will be allowed after effective payment;
- immunity and exemption will result in the annulment of the credit related to prior operations (except exports);
- in operations subject to zero rate, the credit will be maintained in respect to prior operations;
- deadline of 5 years to use credits.

SPECIFIC TAX RATES

Annexes I and VII: Products destined to human feeding and nutritional formula (0% and 60% reduction)

Annexes II and III: Education and health services (60% reduction)

Annexes IV and XIII: Medical appliances (60% reduction)

Annexes V and XIV: Accessibility appliances (0% and 60% reduction)

Annexes VI and XV: Medicines (0% and 60% reduction)

Annexes VIII and XVI: Food for human consumption and vegetables (0% and 60% reduction)

Annex IX: Personal hygiene and cleaning (0% reduction)

Annex X: Agricultural inputs (60% reduction)

Annex XI: Artistic, cultural productions (60% reduction)

Anexo XII: Security goods and services (60% reduction)

PIS AND COFINS CREDITS

Balance of credits in the transition:

- PIS and COFINS credits, including presumed, not ascertained or utilized until the date of extinction of said contributions, will remain valid and useable, if duly registered;
- May be used to offset CBD due or refund in cash or offset with other general taxes, if requirement for such use are met.

Returns as of January 1st, 2027 will give rise to CBS credits corresponding to PIS and COFINS levied on the operations.

PIS and COFINS credits being ascertained based on depreciation, amortization or monthly quota may be further ascertained, as presumed CBS credits, as per previous legislation.

In general, the taxpayer subject to the regular CBS regime may ascertain presumed credit on the inventory of material goods existing in January 1st, 2027.

Valuation and inventory procedures will be set forth in further Regulations.

COMPENSATION OF ICMS TAX BENEFITS

Companies entitled to burdensome ICMS benefits will be compensated with funds of the Tax Benefits Compensation Fund instituted by Constitutional Amendment 132/2023 in view the reduction level of said benefits set forth in article 128 of Transitional Constitutional Provisions Act (ADCT) in the period of January 1st, 2029 to December 31, 2032, according to criteria and limits to determine the benefits level and its reduction.

- Compensation applies to companies entitled to burdensome ICMS benefits granted until May 31, 2023, regardless of further extensions or renovations, considering the deadline of December 31, 2032 and, if applicable, the requirement of register and deposit set forth by Complementary Law 160/2017;
- Is not applicable to benefits set forth in article 3, paragraph 2-A of Complementary Law 160/2017.

Burdensome ICMS benefits are deemed as economic repercussion resulting from incentives granted for a specific period of time and under specific conditions, as per article 178 of the National Tax Code (e.g. that present counterparts). Contributions to state funds required to enjoy tax benefits do not fall under the concept of “condition”.

Depends on the license of the taxpayer, in the form to be established by the Federal Revenue Office that will determine the amount calculated for means of compensation and will also audit taxpayers. The delivery of funds to the beneficiary will take place in 60 (sixty) days counting from the date of approval.

Imports: an operation will be deemed as import when **(i)** executed in Brazil; **(ii)** executed abroad for consumption in Brazil; **(iii)** related to real estate or moveable good located in Brazil; or **(iv)** related to moveable food remitted abroad to service execution that returns to Brazil after its conclusion.

For immaterial goods, the supply by resident or domiciled abroad will be qualified as import when performed to resident or domiciled in Brazil or for consumption in Brazil.

Exports: exports of goods and services to foreign countries are immune from IBS and CBS.

- For services, exports encompass the supply to resident or domiciled abroad (i) whose execution or consumption takes place abroad; (ii) related to a moveable good that enters Brazil for service rendering and returns abroad after its conclusion or (iii) related to a real estate located abroad.
- For rights: the supply to resident or domiciled abroad for consumption abroad.

Responsibility of digital platforms: even if domiciled abroad, digital platforms are responsible for paying IBS and CBS related to operations carried out by them if the supplier is resident or domiciled abroad and jointly liable with the taxpayer if resident or domiciled abroad but not enrolled in the register or does not issue tax document.

SELECTIVE TAX (IS)

Levied on the production, manufacturing, extraction, commercialization or import of goods that harm the health or the environment:

- Vehicles, vessels and aircrafts, smoking products, alcoholic beverages, sugary drinks and mineral goods extracted.

Immunity: **(i)** exports of goods abroad; e **(ii)** operations with electric energy and telecommunication.

Non levy: goods and services with 60% rate reduction of IBS and CBS in differentiated regimes.

One time collection and with no possibility of ascertainment of credits.