



International Tax

## Brazil Tax Alert

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### More revisions to IOF on “short-term” external loan transactions

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The Brazilian government published a decree on 5 December 2012 (Decree 7,853) that amends the Financial Transactions Tax (IOF) by again changing the definition of “short-term” for purposes of inbound loans and offshore bond issues (overseas debt). Where such transactions are not “short-term,” the IOF rate is 0%; where they are short-term, the rate is 6%.

The IOF is imposed on foreign exchange transactions and has been used by the Brazilian government as a tool to stimulate or inhibit the inflow and outflow of foreign currency into/out of Brazil and, consequently, to manage the appreciation/depreciation of the Brazilian Real against foreign currencies. Brazilian legislation allows the government to make changes to the IOF rate as needed, meaning that changes can be implemented with very short notice.

This is the fourth change to the definition of short-term in 2012: a decree issued in March deemed the average maturity term for the imposition of the 6% IOF to be up to three years, which was changed to 1,800 days few days later. A decree issued in June reduced the term from an average of five years to two years (i.e. from 1,800 days to 720 days). Decree 7,853 now reduces the term from an average of two years to one year (i.e. from 720 days to 360 days) to trigger the IOF at a rate of 6%.

The measures in Decree 7,853 apply to foreign exchange transactions taking place as from the date the decree was published. Thus, as from 5 December 2012, the inflow of funds into Brazil from funds raised offshore (either through direct loans or offshore bonds issues) is subject to the 6% IOF if the average maturity term of the transaction is up to 360 days. If the maturity term of the overseas debt exceeds 360 days, the IOF rate is reduced to 0%.

Loans entered into under previous decrees are not affected by the new decree, which means that each inflow of funds must be analyzed under the rule prevailing at the time the relevant loan was contracted.

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